

DIGEST OF CASES REPORTED IN

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ADMINISTRATION :—

Mortgagee—Following assets—Delay not amounting to laches—Administration action.—Where mortgagees have neither actively assented to the distribution of the estate of mortgagor nor prejudiced by their conduct the beneficiaries in delaying the realization, mere delay is not in itself a bar to their commencing a creditor's administration action to enforce their security by following the assets.—*RE EUSTACE, Swinfen Eady, J.*, 468 ; 1912, 1 Ch. 561.

ANNUITY :—

Interest on arrears—Administration action—R. S. C. XV., 62, 63.—In a foreclosure or redemption action, as between incumbrancers and as against the property charged, no interest will, as a general rule, be allowed on arrears of an annuity. But, in the administration of the estate of the grantor of an annuity, the creditor in respect of arrears of an annuity is in no different position from other creditors, and is not excluded from recovering interest on his debt.

Mansfield v. Ogle (4 De J. & J. 38) explained.—*RE SALVIN, Eve, J.*, 241 ; 1912, 1 Ch. 332.

APPEAL :—

Stay of execution—Refusal of respondent's solicitors to give personal undertaking—Ord. 58, r. 16.—The plaintiff succeeded in an action in which nominal damages and an injunction were claimed on the ground of an alleged nuisance by noise. At the trial the defendants did not ask for a stay, but subsequently objected to pay the taxed costs except on the personal undertaking of the plaintiff's solicitors. This undertaking the solicitors declined to give. Application for a stay was then made to the judge, but he refused to make an order.

Held, dismissing the application, that the matter was one in the absolute discretion of the court, and that no special circumstances were shown which would *prima facie* entitle the respondents to the order they sought.

Attorney-General v. Emerson (24 Q. B. D. 56) considered.—*BECKER v. EARLS COURT (LIMITED), C.A.*, 206.

See also Bankruptcy, Contempt, Criminal Law.

APPOINTMENT :—See Jointure.

ARBITRATION :—

1. *Agreement to refer to arbitration—Legal proceedings—Application for stay—Step in proceedings—Summons for directions—Arbitration Act, 1889 (52 & 53 Vict., c. 49), s. 4—R. S. C. XXX. 4.*—Attendance before the master, and acquiescence without protest in an order which is made subject to the production of a certain document to the master which is ultimately produced, is taking a step in the proceedings within the meaning of section 4 of the Arbitration Act, 1889 (52 & 53 Vict., c. 49), and the defendant is thereby precluded from moving to stay proceedings under that section.—*COHEN v. ARTHUR, Neville, J.*, 344.

2. *Construction of agreement—Valuation—Order 54a, r. 4.*—It was held on originating summons that certain words in an agreement, that the value of certain shares was to be determined by two valuers appointed by the parties or an umpire appointed by the valuers in accordance with the Arbitration Act, 1889, constituted the agreement an agreement to arbitrate as to value, and not a mere agreement to have a valuation.—*TAYLOR v. YIELDING, Neville, J.*, 253.

3. *Special case—Breach of contract—Measure of damages—Goods supplied not in accordance with contract—Duty of purchaser to mitigate damages—Purchase of other goods to the pecuniary advantage of purchaser.*—The appellants contracted to provide and deliver to the respondents certain machines in accordance with a specification. Machines were delivered which did not produce the specified amount of electrical energy on a given consumption of coal. After repeated unsuccessful attempts on

the part of the appellants, with the consent of the respondents, to remedy the defects and bring the machines into compliance with the specification, the respondents purchased other machines of a different design and manufacture. In an arbitration in which the appellants claimed the balance of the price of the machines they supplied, the respondents counter-claimed for damages. The arbitrator found that the purchase of the other machines by the respondents was a reasonable and prudent course, and that it mitigated the loss and damage which would otherwise have been recoverable from the appellants. He further found that the purchase of the other machines was to the pecuniary advantage of the respondents, that the superiority of those machines over the machines supplied by the appellants was so great that even if the appellants had delivered machines complying with the specification it would yet have been to the pecuniary advantage of the respondents at their own cost to have replaced the machines supplied by the appellants by the other machines. The question submitted by the arbitrator was whether the respondents were entitled to recover from the appellants the cost of the purchase and installation of the other machines.

The King's Bench Division expressed their opinion, answering the question in the affirmative. The arbitrator subsequently made his award, incorporating the opinion so expressed by the court, and adjudicating in favour of the respondents.

The Court of Appeal held that the award must stand.

On appeal to their Lordships' House, the case was remitted, with an intimation that, on the facts found, the respondents were not entitled to recover from the appellants the cost of the purchase and installation of the other machines.

Decision of Court of Appeal (81 L. J. K. B. 473 ; 106 L. T. 228) reversed.—*BRITISH WESTINGHOUSE ELECTRIC, & Co. v. UNDERGROUND ELECTRIC RAILWAYS Co., H.L.*, 734.

See also Lease.

ASSIGNMENT :—

Contract to supply goods—Rights of seller and assignee.—By a contract in writing the defendants agreed to supply B. H. with 10,000 tons of coal for delivery between the 1st of July, 1911, and the 30th of June, 1912, in about equal monthly quantities. The defendants had had business dealings with B. H. for some years, knew the class of business he was carrying on, and for personal reasons had fixed a specially low price for the coal in question. On the 13th of February, 1912, B. H. assigned to the plaintiff this contract, together with his business of a coal merchant, but the defendants refused to recognize the assignment or make further deliveries under the contract.

Held, that the contract was not one which was assignable at law.—*COOPER v. MICKLEFIELD COAL AND LIME Co., K.B.D.*, 706.

ATTACHMENT :—

Debtors Act, 1869, s. 4 (3)—Fiduciary capacity of executor to creditors terminated when a personal judgment recovered.—Sole creditors of a testator, on evidence that the executor had received assets, took an order on him to pay personally, and afterwards, on an admission that he had had a sum in his hands representing part of the testator's estate, obtained a four-day order to pay the sum into court, followed by attachment for non-compliance.

Held, that by taking a personal order, the plaintiffs had terminated the fiduciary relationship which had until then existed between them and the executor, and therefore could not rely on such relationship to bring the defendant within the 3rd exception in section 4 of the Debtors Act, 1869, and entitle them to an order attaching him for non-payment.—*RE THOMAS, SUTTON v. THOMAS, C.A.*, 571.

BANKER :—

Bill broker—Loans to—Bearer bonds as security—Re-delivery of bonds to bill broker in exchange for cheque—Usage.—A firm of bill brokers borrowed money from the plaintiff banks on depositing

bearer bonds as security. The loans thus created were called in by the plaintiffs, and, in accordance with the general practice in such cases, the securities were returned to the bill brokers in exchange for their cheques. The defendants received in the course of the same day the bonds in question, and, the cheques given to the plaintiff banks having been dishonoured, the plaintiffs sued the defendants for a return of the bonds or their value, alleging that by a practice or usage the bonds remained constructively in their possession, or were impressed with a trust in their favour, until the cheques were honoured.

Held, that the plaintiffs had failed to establish the practice or usage on which they relied.—*LLOYDS BANK v. SWISS BANK-VEREIN, K.B.D.*, 688.

See also *Mistake, Mortgage*.

BANKRUPTCY:—

1. *Act of bankruptcy—Non-compliance with bankruptcy notice issued by creditor who has himself committed an act of bankruptcy—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 4, sub-section 1 (g).*—A debtor cannot be made bankrupt for non-compliance with a bankruptcy notice issued by a creditor whom the debtor knows to have committed an available act of bankruptcy.—*RE A DEBTOR (No. 211 of 1912), C.A.*, 689.

2. *Act of bankruptcy—Notice of suspension of payment by non-trader—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 4, sub-section 1 (h).*—Circulars issued by non-traders calling meetings of their creditors should not be construed as notices of intention to suspend payment unless the terms plainly indicate such an intention.—*RE A DEBTOR (No. 4 of 1912), Bkcy.*, 482.

3. *Act of bankruptcy—Resolution to execute deed of assignment—Assent by creditor to resolution—Subsequent revocation of assent—Joint petition—Effect of assent by one petitioning creditor—Bankruptcy Act, 1883, s. 4, sub-section 1 (a) (h).*—A creditor, who has assented to a resolution for the execution of a deed of assignment for the benefit of creditors, can revoke his assent at any time before the execution of the deed. If two creditors join in a petition, one of whom has assented to a deed and the other not, the fact of assent by the first creditor does not prevent the second creditor from obtaining a receiving order on the petition if his debt is over £50. The receiving order in such case should be drawn up as made on the petition of the second creditor only.—*RE JONES, EX PARTE ASSOCIATED NEWSPAPERS, K.B.D.*, 751.

4. *Administration of estate of deceased insolvent—Executor's right of retainer—Bankruptcy Act, 1883, s. 125, sub-section 9.*—An executrix, before receiving notice of the presentation of a petition for the administration of her testator's estate in bankruptcy, gave notice to the creditors that she intended to retain a debt due to her out of the assets. After receiving notice of the presentation of such a petition she sold some of the assets and retained her debt out of the proceeds.

Held, that her intimation to the creditors of her intention to retain her debt was a good exercise of her right of retainer, and that her subsequent receipt of the money after notice of the presentation of the petition was not invalidated by sub-section 9 of section 125 of the Bankruptcy Act, 1883.—*RE BROAD, Bkcy.*, 35.

5. *Appointment of trustee and committee of inspection—Proofs of majority of creditors and committee subsequently expunged—Annulment of adjudication—Right of trustee to costs incurred with sanction of committee—Qualifications for appointment on committee—Bankruptcy Act, 1883, s. 21, sub-sections 1, 2, 4; s. 22, sub-section 1; s. 35, sub-section 2; s. 138; s. 143, sub-section 2.*—A trustee who has been appointed by creditors and permitted to incur costs by a committee of inspection, whose proofs have subsequently been expunged, with the result that the adjudication has been annulled and a new trustee appointed, is, in the absence of fraud on his part, entitled to have such costs out of the estate.

A creditor is qualified for appointment to the committee of inspection by section 5 of the Bankruptcy Act, 1890, even before he has tendered a proof.—*RE JONES, EX PARTE GOATLY, Bkcy.*, 17.

6. *Bankruptcy notice—Execution—Part payment of judgment debt into county court—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 4, ss. 1 (g)—County Courts Act, 1888 (51 & 52 Vict., c. 43), s. 105—County Court Rules, Ord. 33, r. 15; Ord. 25, rr. 7, 8, 23a—Forms 161a, 163.*—Where a creditor has recovered judgment in the county court for a certain amount, and the debtor pays part of that amount into court, the creditor cannot issue a bankruptcy notice for the whole amount, because the county court will not issue execution for the whole amount. The Court of Appeal, sitting in bankruptcy, cannot decide whether such payment of

part of the judgment debt into court was rightly received by the county court registrar or not.

Per Cozens-Hardy, M.R., and *Kennedy, L.J.*—*Seem* that such payment was rightly received.

Decision of *Bray and Phillimore, J.J.* (*ante*, p. 482), affirmed.—*RE A DEBTOR (No. 2 of 1912, Brentford), C.A.*, 634.

7. *Bankruptcy notice—Final judgment—Story of execution—Judgment for specific performance—Form of bankruptcy notice—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 4, ss. 1 (g)—Bankruptcy forms, 1886-1890, form 6.*—A judgment for specific performance, which requires to be worked out, and under which no money becomes payable until a date later than the judgment, is none the less a final judgment, on which a bankruptcy notice can be founded.

The stay of proceedings in the action which is ordered on such a judgment is not a stay of execution. A bankruptcy notice requiring the debtor to pay the amount due "on a final judgment or order" is not invalidated by the addition of the words "or order," which do not appear in form 6.

Re Poole, Ex parte Twissaday, 7 Morr. 22, approved.—*RE SCHENK, C.A.*, 651.

8. *Bankruptcy notice requiring payment of the debt in a foreign country—Bankruptcy Act, 1883, s. 4, sub-section 1 (g).*—A bankruptcy notice requiring the debtor to pay the debt at an address out of England is bad, since it imposes an additional obligation, which is not in accordance with the terms of the judgment.

A bankruptcy notice requiring payment to be made at an address in England where an agent of the creditor can be found duly authorized to receive payment would be good.

Re a Debtor (1911, 2 K. B. 652), explained.—*RE PINCUS, C.A.*, 36.

9. *Committal for disobedience to order of the court—Services of order—Indorsement—Bankruptcy Act, 1883, s. 53.*—Where it is sought to commit a bankrupt for disobedience to an order made under section 53 of the Bankruptcy Act, 1883, it is not necessary that such order shall have been personally served upon the bankrupt, or endorsed with a warning of the consequences of non-compliance therewith.—*RE PICKARD, Bkcy.*, 144; 1912, 1 K. B. 397.

10. *Deed of assignment—Liability of trustee under deed for intermeddling with estate.*—A trustee under a deed of assignment had received from the debtor the key of his business premises, and, subsequently, with the consent of the majority of the creditors, handed back the key to the debtor, and thus enabled him to dispose of his stock-in-trade. A petition was presented against the debtor within three months of the execution of the deed, and resulted in the debtor being adjudicated bankrupt, whereupon the trustee under the deed was held liable to account to the trustee in bankruptcy for the property assigned by the deed, and to pay over the value thereof.—*RE PRIGOSHEN, Bkcy.*, 554; 1912, 2 K. B. 494.

11. *Execution—Interpleader summons—Holding by sheriff for twenty-one days—Act of bankruptcy—Completion of execution—Title to proceeds of sale—Bankruptcy Act, 1890 (53 & 54 Vict., c. 71), s. 1—Rules of the Supreme Court, Order LVII., rr. 7, 8, 12.*—When execution has been levied by seizure of the goods of a debtor, and an interpleader summons has been taken out with regard to the same, the whole of the time elapsing between the taking out of such summons and the determination of the claim to which such summons has reference, no matter in what manner the same may be determined, must not be taken into account in calculating the period of twenty-one days needed for the completion of an act of bankruptcy under section 1 of the Bankruptcy Act, 1890.—*MASON v. BOLTON'S LIBRARY, Bkcy.*, 706.

12. *Executors carrying on testator's business—Partnership—Bankruptcy Act, 1882 (46 & 47 Vict., c. 52), ss. 20, 115, rule 264—Partnership Act, 1890 (53 & 54 Vict., c. 39), s. 1.*—Executors who carry on the business of their testator in a firm name are not partners, and cannot be adjudicated bankrupt as such.—*RE FISHER & SONS, Bkcy.*, 553; 1912, 2 K. B. 491.

13. *Payment to creditor with notice of act of bankruptcy—Relation back of trustee's title—Trustee not estopped by representations of bankrupt—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), ss. 43, 49.*—Where a creditor has received money of the debtor with notice of an act of bankruptcy, the creditor must repay such money to the trustee, even though he was induced to accept it by the representations of the debtor that the money was the money of a third person, for the money being by relation back the money of the trustee, the latter is not estopped by any representations made by the debtor about it.—*RE ASHWELL, Bkcy.*, 189; 1912, 1 K. B. 390.

14. *Petition—Appeal—Receiving order dated back to day of hearing in court of first instance—Effect of antedating on third parties—Protected transactions—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 49.*—Where a petition has been dismissed in the

court of first instance, and a receiving order is subsequently made by the Court of Appeal and dated back to the day when it ought to have been made in the court below, such antedating does not affect third parties who have dealt innocently with the bankrupt during the interval between the dismissal of the petition and the order of the Court of Appeal.—*RE TEALE, Bkey.*, 553.

15. *Property of the bankrupt divisible among his creditors—Compensation granted by the Treasury—Superannuation allowance—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 44, 53—Superannuation Act, 1834 (4 & 5 Will. 4, c. 24), ss. 18, 30—Superannuation Act, 1859 (22 Vict. c. 26), ss. 2, 7—Superannuation Act, 1909 (9 Ed. 7. c. 10), ss. 1, 6.*—The additional allowance granted by the Treasury to retiring civil servants under the provisions of section 1, sub-section 2, of the Superannuation Act, 1909, is "compensation granted by the Treasury" within the meaning of section 53, sub-section 2, of the Bankruptcy Act, 1883, and is therefore not divisible among the creditors of a bankrupt civil servant unless the court so directs.—*RE LUPTON, C.A.*, 205; 1912, 1 K. B. 107.

16. *Public examination—Questions tending to incriminate the bankrupt—Bankruptcy Act, 1883, ss. 17, 69—Bankruptcy Act, 1890, s. 27.*—A bankrupt who is under a criminal charge is bound to answer questions put to him by the official receiver at his public examination relating to such charge, even though they may tend to incriminate him. The usual practice in such cases is not to press such questions, but to adjourn the public examination until after the trial of the bankrupt in the criminal charge. Such practice, however, will not be followed in cases where an application to extradite the bankrupt, or to hand him over to the authorities of a colony, is pending; or where for other reasons it is desirable that the examination should be proceeded with without delay.—*RE ATHERTON, Bkey.*, 446; 1912, 2 K. B. 251.

17. *Voluntary settlement—Purchase from donee under voluntary settlement after act of bankruptcy by settlor—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 47.*—The bankrupt made a voluntary transfer of shares to his daughter within two years before his bankruptcy. After he had committed an available act of bankruptcy, but before a receiving order had been made against him, the daughter transferred the shares to a *bond fide* purchaser for value who had no notice of the act of bankruptcy.

Held (reversing *Phillimore, J.*), that the trustee was not entitled to set aside the transfer to the *bond fide* purchaser, or to recover the shares, as the purchase had been completed before the trustee came into existence.

Doctrine of *Re Carter & Kenderdine's Contract* (1897, 1 Ch. 776), applied and extended.—*RE HART, EX PARTE THE TRUSTEE, C.A.*, 615; 1912, 2 K. B. 257.

See also *Debt, Husband and Wife.*

CAPITAL OR INCOME:—

Tenant for life and remaindermen—Issue of shares and dividends—Distribution of profits—Power of company to treat shares as income.—Where shares in a company are settled by a testator or settlor, and the company have power to distribute shares as dividends, such shares are to be treated as income, and will go to the tenant for life.

Re Malam (1894, 3 Ch. 585) followed.—*RE PALMER, Eve, J.*, 363.

See also *Will.*

CHARITY:—

1. *Church of England school—Grant of land for the purposes of the School Sites Act, 1841 (4 & 5 Vict., c. 38), and 1844 (7 & 8 Vict., c. 37)—Discontinuance of weekday school—Continued use as Sunday school—User for some purposes of the Act—Settlement of scheme—Power of the trustees to receive a rent for the property to be applied for the purposes of the trust—Duty of court to provide against risk of reverter clause taking effect—Education Act, 1902 (2 Ed. 7, c. 42), ss. 8 and 9.*—In settling a scheme in accordance with a trust for providing and carrying on a Church of England school, great care must be taken that the provisions of the scheme do not interfere with the character of the trust as provided by the trust deed. The scheme in this case provided that the buildings might "be used for such educational purposes not connected with the Established Church, or any creed or denomination as may be ascertained and allowed."

Held, that these words must be struck out as contravening the purposes of the trust, and that applying the *cy-près* doctrine, the buildings might "be used or let on weekdays for such purposes other than those hereinafter specified (but so as not to interfere with the true character of the trust)," so that the trustees might use the moneys obtained in the event of such letting for the purposes of the trust. It was further determined, that having regard to the decision of *Warrington, J.*, in *Attorney-General v. Shadwell* (1910,

1 Ch. 92), every care should be taken that the provisions of the scheme should so far as possible minimize the risk of the reverter clause taking effect.—*ATTORNEY-GENERAL v. PRICE, Swinfen Eady, J.*, 14; 1912, 1 Ch. 667.

2. *Gift to archbishop—To be used as he should think most conducive to the good of religion in his diocese—Invalid gift.*—A testator gave the residue of his estate to the Roman Catholic Archbishop of Brisbane "to be used and expended wholly or in part, as such archbishop may judge most conducive to the good of religion in his diocese."

Held, that the bequest was invalid.—*DUNNE v. BRYNE, P.C.* 324; 1912, A. C. 407.

3. *Gift of land—Gift over—Condition—Uncertainty—Perpetuity.*—A testator gave land to a charity on condition that they published annual accounts, with a gift over, on default, to such persons or for such public purposes as a certain person should direct.

Held, that the gift over was void, and that the charity was entitled to the land freed from the condition.—*RE DA COSTA, Eve, J.*, 240; 1912, 1 Ch. 337.

4. *Legacy—Objects changed by scheme—Lapse—Attorney-General—Charity Commissioners.*—A legacy was given to the R. charity, which was a charity for providing pensions to "poor widows." Under a scheme of the Commissioners the charity was amalgamated with other charities, and the funds vested in the official trustee of charitable funds. The income was to be applied principally in providing pensions to "poor persons."

Held, that the legacy had not lapsed, but was payable to the official trustee as part of the funds of the amalgamated charity.—*RE FARAKER, C.A.*, 668.

5. *Objects to be selected by trustees—Discretion of trustees not controlled by court—Cy-près doctrine not applicable.*—An Act of Parliament directed that the income of a society whose objects had failed was to be applied to such charities as the society, with the consent of four-fifths of the governors, should select, subject to the sanction of the court.

Held, that the application was not to be *cy-près*, and that the court had no power to direct a scheme nor to control the discretion of the trustees so long as it was properly exercised.—*RE IMPRISONED DEBTORS' DISCHARGE SOCIETY'S ACT, C.A.*, 596.

6. *To preach a sermon—Application of cy-près doctrine—Scheme by Charity Commissioners—Distributive charities—Electionary gift—Increased profits—Apportionment.*—A gift to distribute a fixed sum weekly in loaves to the poor, and "the residue of the profits thereof, if any shall arise or grow out of the said premises over and above the said sum of two shillings weekly, the same to be employed for or towards the charges of a sermon once in every year to be made," must be applied, first, in paying the fixed sum for the purpose stated, and the residue, regardless of its great increase, must be applied *cy-près* to the preaching of a sermon, and cannot be apportioned between the two objects.—*ATTORNEY-GENERAL v. PELLY, Parker, J.*, 241.

COAL MINES:—

Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58) s. 49, rule 30—Coal mine—Negligence—Statutory duty—Master and servant—Common employment.—By section 49 of the Coal Mines Regulation Act, 1887, "the following rules shall be observed so far as is reasonably practicable, in every mine," and general rule 30 set out in that section provides "there shall be attached to every machine worked by steam, water or mechanical power, and used for the lowering or raising of persons, an adequate brake or brakes, and a proper indicator (in addition to any mark on the rope), shewing to the person who works the machine the position of the cage or tub in the shaft. If the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft." A workman while being lowered into a mine was killed, owing to the failure of the brake caused from the cage being overcrowded.

Held, that the statutory provision was not complied with merely by the mine owners duly appointing an expert manager and a brake to the cage which he deemed adequate, and therefore, that the man's widow was entitled, there having been a breach of the statutory regulations, apart from any rights she might have at common law, to maintain the action.

Decision of Court of Appeal (55 SOLICITORS' JOURNAL, 347; 1911, 2 K. B. 162) reversed.—*WATKINS v. NAVAL COLLIERY, H.L.*, 719.

COLLECTING SOCIETY:—

Collecting Societies Act, 1896, s. 5 (2) and (3)—Annual meeting—Adjournment—Notice by advertisement—Statement of business not requisite.—The rules of a collecting society fixed the day, hour, and place of the annual meeting, and allowed its adjournment to London.

Notice of the adjournment was to be given by advertisement, and copies of the advertisements containing a statement of the business to be transacted were to be exhibited in the offices of the society.

Held, that these rules were not in conflict with the provisions of the Collecting Societies Act, 1896, and that it was not essential that the published advertisements should contain a statement of business to be transacted, although the copies exhibited in the offices must contain such a statement.—*KIRSOPP v. HIGHTON, C.A.*, 750.

COMPANY:—

1. *Agreement to treat any moneys paid by a director in respect of his guarantee of the company's overdraft at the bank at his option as paid in advance of future calls—Winding-up—Subsequent payment under a guarantee—Option exercised—Calls—Right of set-off.*—A resolution made by a board of directors, that payments made by a guarantor in respect of his guarantee should be treated at his option as payments made in advance of any calls which might be thereafter made, does not entitle such guarantor to set off payments made in respect of the guarantee after the liquidation of the company against a subsequent call made in the course of the liquidation of the company.—*RE LAW CAR AND GENERAL INSURANCE CORPORATION, Neville, J.*, 273; 1912, 1 Ch. 405.

2. *Alteration of memorandum of association—Objects of company—Power to lease undertaking—Sanction of court—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 9 (i).*—The court, under section 9 of the Companies (Consolidation) Act, 1908, may, in its discretion, sanction alterations of the objects of a company, including a power to lease the whole undertaking of the company.—*RE ANGLO-AMERICAN TELEGRAPH Co., Joyce J.*, 141.

3. *Alteration of memorandum of association—Objects of company—Power to purchase other undertakings—Power of amalgamation—Power of sale—Sanction of court—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 9 (i).*—The court under section 9 of the Companies (Consolidation) Act, 1908, may in its discretion sanction very wide alterations of the objects of a company, including a power to purchase other undertakings, a power of amalgamation with other concerns, and a power of sale of the whole of the company's undertaking.—*RE NEW WESTMINSTER BREWERY Co., Joyce J.*, 141.

4. *Articles of Association—Ipso facto vacation of directorship in insolvency—Meaning of "Insolvency."*—By one of the articles of association of a limited liability company, "The office of a director shall, *ipso facto*, be vacated if he become bankrupt, lunatic or insolvent, or if by notice in writing to the company he resigns his office, or if he ceases to hold the necessary qualification in shares or stock."

Held, that the word "insolvent" in this article was not limited in meaning to a status of insolvency known beyond the circle of the director's creditors, as, for example, by the director calling all his creditors together, or by executing a deed of assignment for their benefit. If a director was unable to pay his debts when they fell due, and that fact was known only in the circle of his creditors, he might be "insolvent" within the meaning of the article.

Obiter dictum on the meaning of the word "lunatic" in the article *per* Hamilton, J.—*JAMES v. ROCKWOOD COLLIERY, K.B.D.*, 292.

5. *Auditors—Right of access to books of company—Negligence—Resignation—Companies Consolidation Act, 1908, (8 Ed. 7, c. 69), ss. 112, 113.*—Auditors of a company have a right of access at all times to the books and accounts of the company, although they are guilty of negligence, and proceedings are instituted against them.

The Companies Act, 1908, s. 112 (6), provides for a casual vacancy in the office of auditor, but it does not in terms empower auditors to resign, or the company to remove them; and, *quære*, whether these powers exist.—*CUFF v. LONDON AND COUNTY LAND & Co., Eve, J.*, 273; 1912, 1 Ch. 440.

6. *Book Debt—Assignment—Hypothecation—Mortgage or charge—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 93.*—The plaintiffs made advances to the defendants on the deposit of bills of lading and invoices in respect of goods sold, the proceeds of the latter being hypothecated to the plaintiffs.

Held, that such a transaction was a mortgage or charge of book debts within section 93 of the Companies (Consolidation) Act, 1908, and, being unregistered, was void as against the liquidator of the defendant company.—*LADENBURG v. GOODWIN, K.B.D.*, 722.

7. *Capital—Reorganization of share capital—Special resolution—Meetings of classes of shareholders affected—Companies (Consolidation) Act, 1908, s. 45.*—A company whose capital was divided into preference and ordinary shares passed a special

resolution for the reorganization of its capital by converting certain preference shares into ordinary shares and by giving the preference shareholders a right to participate in surplus profits. The resolution was also passed and confirmed at separate meetings of the preference shareholders, but not by the ordinary shareholders.

Held, that the special resolution ought to be confirmed by the court, notwithstanding that it had not been confirmed by the ordinary shareholders.—*RE STEWART PRECISION CARBURETTOR Co., Eve, J.*, 413.

8. *Debenture trust deed—Floating charge on future assets—Subsequent legal mortgage—Priorities.*—A company issued a first series of debentures secured by a deed containing a separate charge on property E, and a floating charge on after-acquired property. Having acquired property B, the company issued a second series of debentures, and assigned properties A and B to trustees, subject to the provisions of the earlier deed.

Held, that the earlier deed had priority over the second as regards both properties.—*RE ROBERT STEPHENSON & Co., C.A.*, 648.

9. *Debentures—Conversion of redeemable debentures into irredeemable—Modification of rights of debenture holders—Power of majority to bind dissentient minority.*—A company issued debentures, the trust deed providing that the holders might by extraordinary resolution sanction any modification of the rights of the debenture holders against the company, or its property or any modification of the trust deed as recommended by the trustees. By an extraordinary resolution certain modifications in the trust deed were approved, in particular the conversion of the debentures into irredeemable debentures, the provision of a sinking fund by the company, for the gradual reduction of the debentures, and certain extensions of the powers of the trustees. A minority of the debenture holders refused to be bound by the resolution.

Held, that there was no implied condition that the powers of the debenture holders could only be exercised in the event of some serious occasion arising; that the effect of the resolution was a modification of the rights of the debenture holders, that there was no reason to fear that any inequality or unfairness would be caused thereby, and that accordingly the resolution was valid and binding upon the minority.—*NORTHERN ASSURANCE Co. v. FARNHAM UNITED BREWERIES, Joyce, J.*, 360.

10. *Debentures—Payment off—Right of company to compel payment—Interest to date only.*—Where debentures become enforceable on the happening of certain events, the debenture holders have a right to require payment on the happening of those events, but they do not put the debenture holders in a position of being compelled to accept payment. Where the events are entirely within the control of the company to determine whether they shall happen or not, the company, cannot by determining the event, compel the debenture holder to accept his money at a moment's notice.—*RE GENERAL MOTOR CAR Co., Eve, J.*, 573.

11. *Debentures—Priority—Debenture holders and equitable mortgagee—Purchase of real estate—Contemporaneous agreement for charge.*—A company issued debentures and gave as security a floating charge on the present and future property of the company. The company subsequently purchased some real estate, and the purchase money was advanced by a person who was secured by the deposit of the deeds of the property purchased as an equitable mortgage.

Held, that the equitable mortgagee had priority over the debenture holders.—*RE CONNOLLY BROS., Warrington, J.*, 360; 1912, 2 Ch. 25.

12. *Debentures—Trustees for the debenture holders—Remuneration of trustees—Contract by company to pay—Charge upon property mortgaged—Right of the trustees to be paid their remuneration before the debentures are satisfied—Distribution of funds in court.*—Remuneration given to the trustees of a debenture trust deed, and expressly payable to them even after the appointment of a receiver and manager, must continue to be paid to them without having regard to any question of whether there are duties for them to perform or not. In construing those clauses which relate to the receipt and application of the moneys arising on the event of the trust for sale coming into operation, regard must be had to the essence of such clauses, and not to the strict wording thereof. Funds standing in court to the credit of one action can be distributed to the parties in another action provided such distribution does not prejudice any of such parties.—*RE PICCADILLY HOTEL Co., Swinfen Eady, J.*, 52; 1911, 2 Ch. 534.

13. *Extraordinary general meeting—Powers of shareholders to call meeting—Conditions to be fulfilled—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 66.*—The holders of more than one-tenth of the issued paid-up share capital of a company requisitioned the directors to hold an extraordinary general meeting of the

shareholders for the purpose of "considering the reconstruction of the board, and resolutions concerning the directorate and officers of the company." The requisition was composed of several documents in like form, with the exception that some of them contained after the word "company" the words "in addition to the affairs of the company in general."

It was contended that the requisitionists must be holders of one-tenth of the issued shares of the company; that the requisition did not consist of documents in "like form," and that the purpose of the meeting was not sufficiently stated.

Held, that the words in section 66 (1) of the Companies (Consolidation) Act, 1908, "upon which all calls or other sums then due had been paid" governed the words "issued share capital of the company," and that the requisitionists were only required to hold one-tenth of the shares on which all sums due had been paid.

Held also, that the several documents of which the requisition consisted were in like form within the meaning of section 66 (2). Held also, that the objects of the meeting were sufficiently stated within the meaning of section 66 (2).—*FRUIT AND VEGETABLE GROWERS' ASSOCIATION v. KEKEWICH*, Warrington, J., 502.

14. *Issue of shares to directors at a price below their true value—Resolution of the company—Right of directors to vote.*—By a resolution passed at an extraordinary general meeting of the company, it was resolved that certain unissued shares should be issued to the directors at par, though the true value of the shares was much greater. The directors held a majority of the shares in the company, and the resolution was carried by their votes.

Held, that although the value of the portion of the assets of the minority was decreased, and the value of the portion of the assets of the majority was increased, by an amount greater than the sum paid for the new shares, the resolution was binding on the minority, and could not be set aside.—*VING v. ROBERTSON & WOODCOCK*, Warrington, J., 412.

15. *Misfeasance—Release as a bar to proceedings—Proceedings not contemplated by the release.*—It is not competent for a respondent on a summons against him for misfeasance to set up as a bar to the proceedings that a release had been given him by the company which included a general clause of release, unless such release is shown to have contemplated the matters actually in question on the summons.—*RE JOINT STOCK TRUST AND FINANCE CORPORATION*, Swinfen Eady, J., 272.

16. *Petition by company in liquidation to wind up a subsidiary company—What is a subsidiary company?—Assurance Companies Act, 1909, s. 16.*—In order to constitute a company a subsidiary company within the meaning of section 16 of the Assurance Companies Act, 1909, there must be a transfer of the business of the company or some part thereof to the principal company. A treaty of re-assurance is not such a transfer. A guarantee of all the policies is not such a transfer. One company by a mere purchase of a majority of the shares of the other company does not so acquire any part of the business. It merely constitutes itself a principal shareholder of the business and not a transferee of any part thereof.—*RE LANCASHIRE PLATE GLASS, &c., Co.*, Swinfen Eady, J., 13; 1912, 1 Ch. 35.

17. *Preference shares—Dividends—Rights of different classes of shareholders in surplus profits—Articles of association.*—A resolution of a company in general meeting authorized the issue of preference shares carrying a cumulative preferential dividend of 10 per cent.

Held, that after receiving this dividend the preference shareholders had no right to participate in any further profits for the year which might be available for division.—*WILL v. UNITED LANKAT PLANTATION CO., C.A.*, 648.

18. *Prospectus—Misrepresentation—Repudiation of shares—Application by shareholder to remove name from register—Laches—Explanation of delay.*—In February, 1910, the applicant applied for and was allotted shares in the company. In the middle of May, or at the latest by the end of July, the applicant became aware that there were misrepresentations in the prospectus. In December he applied to the court to have his name removed from the register on the ground of the misrepresentation.

Held, that the lapse of time between the discovery of the true state of things and repudiation was too long, and precluded the applicant from obtaining relief.—*RE CHRISTINEVILLE RUBBER ESTATES (LIMITED)*, Eve, J., 53.

19. *Rectification of register—Prospectus—Misrepresentation—Evidence—Report of expert employed by company—Admissibility against company.*—On a motion to remove the name of the applicant from the register of members of the company on the ground of a misrepresentation in the prospectus, the only evidence adduced to prove that the representation was not true was the report of an expert employed by the company.

Held, that the report was not admissible against the company to prove the truth of the allegations.—*RE DJAMBI RUBBER ESTATES*, Warrington, J., 704.

20. *Receiver and manager appointed—Debenture-holders' action—Application to the court for directions—Onerous contracts.*—The court refused to sanction a borrowing by the receiver and manager of a company which would put a charge in front of the debenture-holders' security in order to complete a contract from which no direct profit would result, and where there was no evidence that even any indirect profit would ensue.—*RE THAMES IRONWORKS, &c., Co.*, Parker, J., 413.

21. *Reduction of capital—Capital consisting of stock only—Practice—Companies (Consolidation) Act, 1908—Special resolution to write off stock—Validity.*—When the capital of a company consists only of stock, a reduction of the capital of the company can be effected by cancelling a part of the stock.—*RE HOUSE PROPERTY AND INVESTMENT CO.*, Neville, J., 505.

22. *Reduction of capital—Petition by company—Minute—Shares paid up in different amounts—Numerous groups of shares—Aggregation of the groups stated in the minute—Denoting numbers stated in a separate memorandum—Denoting numbers of the shares—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 51—Form of advertisement.*—The minute for reduction of capital, drawn up in accordance with section 51 of the Companies (Consolidation) Act, 1908, must contain, among other particulars, the denoting numbers of the shares referred to in it, but the notice of registration of such minute need not contain such denoting numbers, but may be in such shortened form as the court may direct.—*RE OCEANA DEVELOPMENT CO.*, Swinfen Eady, J., 537.

23. *Resolution—Form of notice of special resolution—Extraordinary resolution—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 69.*—It is not necessary that the notice convening a meeting at which a special resolution is to be passed should state that such resolution is to be proposed as an extraordinary resolution—sub-section 2 (a) of section 69 of the Companies (Consolidation) Act, 1908, only refers to the passing of the resolution, not to the calling together of the meeting for the purpose of passing it.—*RE PENARTH PONTOON SHIPWAY AND SHIP REPAIRING CO.*, Swinfen Eady, J., 124.

24. *Sale of undertaking—Company promoted for "the illustration and advancement of the arts"—Crystal Palace Company's Act, 1877 (40 and 41 Vict. c. cxvii).*—The Crystal Palace Co., originally incorporated by a deed of settlement in 1852, was to acquire the Great Exhibition building in Hyde Park, and remove and erect the same on land purchased for the purpose at Sydenham. The objects and business of the company were *inter alia* "the advancement of the arts and sciences . . . and the cultivation of a refined taste among all classes of the community." Subsequently the company was registered under the Companies Acts and issued debentures. In a debenture holder's action,

Held, that the company was not a company formed for public purposes within the principle of *Gardner v. London Chatham and Dover Railway Co.* (L. R. 2 Ch. 201), and therefore that the court had power, on the application of holders of debenture stock, to order a sale of the property and undertaking.

Decision of Court of Appeal, reported sub nom. *Fox v. Crystal Palace Co.* (55 SOLICITORS' JOURNAL, 348; 27 T. L. R. 305), affirmed.—*SAUNDERS v. BEVAN*, H.L., 666.

25. *Scheme of arrangement—Reduction of capital—Reorganization of share capital—Alteration of the preferential rights defined by the memorandum—Companies (Consolidation) Act, 1908, 8 Ed. 7, c. 69), ss. 45, 46, and 120.*—A scheme of arrangement and reduction of capital made in compliance with the requirements of section 120 of the Companies (Consolidation) Act, 1908, and to which section 45 of such Act was held to be inapplicable, was sanctioned.

Quere whether compliance with section 120 alone would be sufficient in the case of a scheme involving a reorganization within the scope of section 45.—*RE PALACE HOTEL*, Swinfen Eady, J., 649.

26. *Surrender of shares—Validity—No reduction of capital—New shares in exchange.*—The holders of 1,000 6 per cent. shares in a company surrendered them in exchange for 1,000 5 per cent. shares, which were issued to them as fully paid.

Held, that the transaction, not involving any reduction of capital, was valid.—*ROWELL v. ROWELL*, Warrington, J., 704.

27. *Winding-up—Costs of litigation—Action brought against the company before winding-up—Judgment under appeal.*—The mere fact of the judgment obtained against a liquidator being under appeal does not affect the application of the rule laid down in *Re Wenborn & Co.* (1905, 1 Ch. 413), that the successful defendant is entitled to have his costs in full out of the assets of

the company of an action brought or defended by the company and continued after winding up by the liquidator.—*RE FREE & SONS (LIMITED), Swinfen Eady, J.*, 175.

28. *Winding-up—Dissolution—When voidable—Section 223 of Companies (Consolidation) Act, 1908—Consent of liquidator to shares not being transferred—Effect of section 195 of Companies (Consolidation) Act, 1908, on re-opening dissolution.*—The dissolution of a company which is carried out merely for the purposes of reconstruction will be declared void under section 223 of the Companies (Consolidation) Act, 1908, if it can be shewn that in such reconstruction the agreement between the liquidator of the old company and the new company has not been fully carried out, in that an attempt has been made to evade the liabilities of the old company by not transferring certain shares to the new company on which there was a liability, and such dissolution will still be declared void even though the liquidator of the old company consented that such shares should not be transferred to the new company.—*RE SPOTTISWOOD, DIXON & HUNTING, Neville, J.*, 272; 1912, 1 Ch. 410.

29. *Winding-up—Scotch law—Arrestment—Judgment on Arrestment obtained after petition to wind up served—Companies (Consolidation) Act, 1908, s. 142—Action of "Furthcoming" in Scotland.*—Leave was granted under section 142 of the Companies (Consolidation) Act, 1908, to the applicants to bring a fresh action in Scotland after the winding-up order had been made, when it was shewn that such fresh action was in reality only a method of obtaining the fruits of a previous action.—*RE NATIONAL PROVINCIAL INSURANCE CORPORATION, Swinfen Eady, J.*, 290.

30. *Winding-up—Surplus assets—Distribution—Insufficiency—Irregular issue—Partly paid stock—Bonus shares—Adjustment of rights of contributors.*—(1) The irregularity committed by a company in issuing fully paid stock without first issuing shares is an irregularity which does not affect the real substance of the transaction, and will not in equity be held to avoid the transaction, but can be ignored, and the stock will accordingly be deemed to have been properly issued.

(2) A company in certain circumstances has power to convert its shares into stock.

(3) The issue of bonus shares being wholly *ultra vires* in this case such shares were treated as non-existent, and the holders thereof were accordingly neither liable to pay calls thereon nor entitled to rank as creditors against the company.—*RE HOME AND FOREIGN INVESTMENT AND AGENCY CO., Swinfen Eady, J.*, 124; 1912, 1 Ch. 72.

See also Capital and Income, Trade Name.

CONTEMPT:—

1. *Contempt of court—Publication tending to influence result of proceedings—Newspaper comments.*—It is a contempt of court for a newspaper to refer to an action pending in the King's court in any manner that may tend in any degree to interfere with the course of justice, and it cannot be pleaded in excuse either that the reference was only made for political purposes, or that the names of the parties in the action were not mentioned.—*THORNHILL v. STEELE-MORRIS, Swinfen Eady, J.*, 34.

2. *Hearing in camera—Publication—Contempt—Committal—Appeal—Judicature Act, 1873, s. 47—Criminal cause or matter.*—Held by Cozens-Hardy, M.R., and Farwell, Buckley, and Kennedy, L.JJ. (diss. Vaughan Williams and Fletcher Moulton, L.JJ.), that it is a contempt of court to communicate to any person anything which takes place at the trial of a suit *in camera*.

Held also, that a motion to commit for such contempt is a criminal cause or matter within the meaning of section 47 of the Judicature Act, 1873, and is not subject to appeal save for error apparent on the face of the record.

Per Buckley, L.J., proceedings in chambers are not on the same footing as proceedings *in camera*, and are not subject to the same obligation of secrecy.—*SCOTT v. SCOTT, C.A.*, 666.

3. *Motion to commit—Interference with receiver and manager of business—Competing business—Injunction.*—When a receiver and manager of a partnership business has been appointed, a partner who starts a competing business in such a manner as to be likely to injure the original business (e.g., by issuing circulars that the original business is no longer carried on), may be punished by committal for contempt of court.—*KING v. DORSON, Joyce, J.*, 51.

CONTRACT:—

1. *Construction—Salary payable per week—Provisions for non-payment of salary for certain days—Date when salary due.*—The proprietor of a music-hall entered into an agreement with an artiste for the latter to perform for one week "at £180 per week." By clause 8 of the agreement, "In case the artiste shall except through illness . . . or accident . . . fail to per-

form at any performance the artiste shall pay to the management as and for liquidated damages a sum equal to the sum which the artiste would have received for such performance in addition to costs incurred by the management through the default of the artiste" Clause 12 provided that "the artiste shall not assign, mortgage, or charge the artiste's salary, nor permit the same to be taken in execution. No salary shall be paid for days upon which the theatre is closed by reason of national mourning" "No salary shall be payable for any performance at which the artiste may not appear through illness or his own default" Clause 16 provided (*inter alia*) that "If the artiste shall commit any breach of any of the terms and conditions of this contract or of the rules the management, without prejudice to other remedies, and in addition to rights given under the terms and conditions aforesaid, or the rules, may forthwith determine this contract, and the artiste shall have no claim upon them for salary (other than a proportion for performances played, expenses, costs, or otherwise)."

Held, that the salary of the artiste was not due until the end of the week, and so could not be garnished before that date.—*MAPLESON v. SEARS, K.B.D.*, 54.

2. *Employment—Agreement for definite time exceeding one year—Power to determine within year by notice—Statute of Frauds (29 Car. 2, c. 3), s. 4.*—Where an agreement is within section 4 of the Statute of Frauds by reason of its being an agreement for a definite number of years or for a definite time exceeding one year, it is not taken out of the operation of the statute by a clause in the agreement giving either party the right to determine it within the year. Consequently, an agreement for employment for a period of two years, subject to six months' notice on either side during that period, is an agreement which is not to be performed within the year from the making thereof, and is therefore within section 4 of the Statute of Frauds.—*HANAU v. EHRLICH, H.L.*, 186; 1912, A. C. 39.

3. *Employment—Baptist minister—Termination of employment—Effect of resignation as from a future date—Right to withdraw resignation.*—A Baptist minister, who expresses his intention to resign his ministry on or before a certain date, at a formal meeting of the communicants of his church, does not thereby terminate his employment. If a Baptist minister does definitely resign his appointment, as from a future date, he may, before that date arrives, withdraw his resignation at a formal meeting of the communicants of the church, although the meeting is not such as would have power to appoint a new minister.—*NICKSON v. DOLPHIN, Warrington, J.*, 123.

4. *Implied term—Agency—Appointment on commission for fixed period—Ceasing to carry on business.—Semble:* A term which is not expressed in a contract will not be implied, because the court thinks it is a reasonable term, but only if the court thinks it is necessarily implied in the nature of the contract the parties have made. Where there is a principal subject-matter in the power of one of the parties, and an accessory or subordinate benefit arising by contract out of its existence to the other party, the court will not, in the absence of express words, imply a term that the subject matter shall be kept in existence merely in order to provide the subordinate or accessory benefit to the other party. Where, however, there is an express term requiring the continuance of the principal subject-matter, or giving the plaintiff a right to a continuing benefit, the courts will not imply a condition that the plaintiff's right in this respect shall cease on certain events not expressly provided for.—*LAZARUS v. CAIRN LINE OF STEAMSHIPS (LIMITED), K.B.D.*, 345.

5. *Private inquiry agent—Agreement to watch a person's husband—Warranty of secrecy of agents employed after they have left service.*—The plaintiff, a private inquiry agent, contracted with the defendant, a married woman living apart from her husband, that a watch should be kept upon the husband, and the plaintiff arranged for a watch to be kept on the movements of the defendant's husband from January 4th to the first week in April, 1911. D, a man employed by the plaintiff upon this work for three days, after the expiration of his service, told G, a man who had been employed by the plaintiff in 1909, of the work upon which he was engaged, and G informed the defendant's husband that he was being watched. The plaintiff knew nothing of this, and continued to organize the watch kept upon the defendant's husband after he had been informed that observation was being kept upon his movements.

Held, that there could not be implied from the circumstances of such a contract that the plaintiff guaranteed secrecy on the part of persons she employed in the work of watching, after they had left her service.—*EASTON v. HITCHCOCK, K.B.D.*, 254; 1912, 1 K. B. 535.

6. *Theatrical engagement—Action for breach—Payment into court—Stay of proceedings.*—The plaintiff, an actress, signed a

contract to appear at a certain music-hall. That music-hall, when the time came to fulfil the engagement, was booked up, and the syndicate directed her to give her performance at another hall, which they were entitled to do under the contract. The plaintiff alleged that at this music-hall a number of rough men were engaged with instructions to shout down her performance, the intention being to enable the defendants to terminate the performance, which in fact they did, on the ground that it was displeasing to the public. The plaintiff thereupon commenced an action claiming damages for breach of contract and conspiracy. The syndicate, before the action came on for trial, paid money into court in satisfaction of the whole cause of action, and the plaintiff took this sum out. The other defendants, with the exception of the manager of the hall where she had played under the contract, subsequently obtained orders, staying the action as against them. The plaintiff having continued her action against that defendant, he moved for an order staying all proceeding as against him. The judge at chambers made an order in his favour.

Held, that the action had rightly been stayed, and that the plaintiff was liable to pay the defendant's costs.—*BEADON v. CAPITAL SYNDICATE, C.A.*, 536.

7. *To continue until a certain date—Continuance thereafter subject to determination by notice—Notice given expiring on the fixed date—Validity of notice.*—An agreement provided that it should continue until the 31st of December, 1911, and should continue thereafter subject to determination by twelve months' previous notice. A notice was given in 1910 to determine the agreement on 31st of December, 1911.

Held, that the notice was invalid and of no effect.—*RE JOHN BRINSMEAD & SONS, Eve, J.*, 253.

See also *Infant*.

COPYRIGHT:—

1. *Musical composition—Rights of composer after publication—Reproduction—Exclusive performance—Gramophone—Injunction.*—An author or composer has no common law right of property in his ideas which enables him, after he has published them to the world, to restrain a third person from making use of them for his own profit. After publication an author or composer can only rely on his statutory rights, and if what is being done does not infringe those statutory rights, he has no remedy.—*MONCKTON v. GRAMOPHONE CO., C.A.*, 270.

2. *Picture—Infringement—Injunction—Damages—Penalties—Copies made before registration—Subsequent registration—Sale after registration—Copyright Act (25 & 26 Vict., c. 68).*—A certain photograph was taken by the agent of the plaintiffs of an incident at the Delhi Durbar, and the plaintiff subsequently saw a similar photograph appear in an illustrated paper. He thereupon registered his photograph under the Copyright Act, and proceeded to the office of the paper and purchased two copies of the paper which contained the photograph, and sued the publishers and proprietors of the paper, claiming an injunction and damages for infringement of his copyright.

Held, that he was entitled to an injunction, and to an inquiry as to damages.—*BAKER MOTION PHOTOGRAPHIC CO. v. HULTON, Neville, J.*, 633.

COSTS:—

1. *Attorney-General—Action for the purpose of ascertaining construction of will.*—The Attorney-General took out a summons for ascertaining the construction of a will under section 20 of the Charitable Trusts Act, 1853. It was held that, although where the Attorney-General commenced hostile litigation he neither paid nor received costs, yet in the case of an action for the purpose of ascertaining the construction of a will he was entitled to his costs.—*RE CARDWELL, Warrington, J.*, 361; 1912, 1 Ch. 779.

2. *Compulsory purchase—Funds in court—Order for transfer to several transferees—Separate fees for requests and attendance before paymaster—Land Clauses Consolidation Act, 1845 (8 & 9 Vict., c. 18), s. 80—Supreme Court Funds Rules, 1905, rr. 34, 35.*—The allowance of two fees for attendance before the accountant-general, on an application under the new rules for payment out of funds paid in under the Land Clauses Acts, which originated when under the practice in Chancery under the old consolidated orders it was necessary for the solicitor to attend both before the registrar and also before the accountant-general, was held to be common form to-day, and such fees were accordingly not disallowed.—*RE BUTLER'S WILL, Parker, J.*, 326.

3. *Infant plaintiff—Costs of next friend—Debt due to testator by next friend—Set-off.*—The costs of a next friend of an infant in an administration action are treated as the costs of the infant, and accordingly they cannot be set off against a debt which the next friend owes to the estate.—*RE BARTON, Neville, J.*, 380.

4. *Settled estate—Capital money—Payments out of—Petition to the ecclesiastical courts for a faculty—Compromise of petition—Proceedings for the protection of the estate—Costs of tenant for life permitted to be paid out of the proceeds of sale of part of the estate—Settled Land Act, 1882, s. 36.*—The costs of the petitioners and the fees and expenses of the chancellor of the diocese of a petition for a new faculty made to the ecclesiastical courts by the lord of the manor, which petition alleged a lost faculty, and also that the lord had exercised certain privileges of seating accommodation and burial in the south aisle of his parish church since the year 1740, and which was compromised, the lord being granted certain rights of seating, and of burial, and of erecting memorial tablets in such aisle, were held to be costs for the protection of the settled land within the meaning of section 36 of the Settled Land Act, 1882, and accordingly the court could order such costs to be paid out of capital moneys.

As to the costs of the vicar on such a petition, *quære*.—*RE MOSLEY'S S. E., Neville, J.*, 325.

5. *Shorthand note—Note taken by agreement of parties, and notice to that effect given to judge at the trial—Notes used on appeal—Application by successful party—Rule on which such application will be allowed.*—Where the parties agree at the trial that a shorthand note shall be taken, and thereupon intimate that agreement to the presiding judge, so that he is thereby relieved from taking a note, as the shorthand note, by consent, is to be the record of what took place for the guidance of the Court of Appeal, the cost of such note to the successful party will be allowed on taxation.—*HERBERT v. ROYAL SOCIETY OF MEDICINE, C.A.*, 107.

6. *Trustee—Clause in will providing for costs of litigation—Inapplicable to litigation caused by wilful default of trustees.*—The ordinary clause in a will entitling trustees to pay first out of the trust funds the costs of all parties to proceedings for the administration of the trusts by the court has no application where the action is based on the wilful default of the trustees, and the trustees may accordingly be ordered by the court to pay all the costs in such circumstances.—*RE JAMES WILLIAMS, Swinfen Eady, J.*, 325; 1912, 1 Ch. 399.

See also *County Court, Solicitor*.

COUNTY COURT:—

1. *Costs—Recovery of sum less than £20 under Order XIV.—Judgment for part of claim—Judgment for defendant in county court with costs on scale B—Action remitted—Right of defendant to costs before remittal—County Courts Act, 1888 (51 & 52 Vict., c. 43), ss. 55, 65, 113, 116.*—In an action to recover £20 19s. 10d., founded on contract, brought in the High Court, the plaintiffs applied for judgment under order 14, and an order was made that if the defendant did not pay the plaintiffs £3 within two days they should be at liberty to sign final judgment for that amount. The order gave the defendant liberty to defend the action as to the balance of the claim, and directed that the action should be tried in the county court. The defendant paid the £3 in conformity with the order, and at the trial the judge gave judgment for him with costs on scale B, and under this order the registrar, and, on appeal, the judge, allowed on taxation items in respect of proceedings under order 14.

Held, that the costs in question not having been "otherwise provided for" in the County Court Act, 1898, were in the discretion of the judge, under section 113, and that he had jurisdiction to allow them to the defendant.

Decision of Divisional Court (56 SOLICITORS' JOURNAL, 143; 1912, 1 K. B. 254) affirmed.—*MENTORS (LIMITED) v. WHITE, C.A.*, 502.

2. *Counterclaim—Plaintiff successful on claim—Defendant on counter-claim—Defendant's costs—Taxation of—Counsel's fees—Division of, for work on claim and counter-claim.*—Where a plaintiff in the county court recovers judgment on his claim, with costs, and the defendant recovers judgment on the counter-claim, with costs, on the taxation of the defendant's costs, the registrar must divide the defendant's fees for counsel into two parts: that for the work in endeavouring to defeat the plaintiff's claim and that for successfully establishing the defendant's counter-claim, and he must allow the defendant, on taxation, the last portion only.

In such an action where the plaintiff recovered judgment for £25, and the defendant for £26, the scale fee for counsel on brief being in each case three guineas, the plaintiff taxed his costs, being allowed three guineas for this fee, the registrar taxed the defendant's costs, allowing him the same fee, but the plaintiff objected that only such portion of this fee could be allowed as was disallowed to the plaintiff, and as the registrar had properly allowed to the plaintiff the full scale fee in respect of the claim, no such fee could be allowed to the defendant.

Held, that this contention was bad, and that the defendant's fee for counsel must be taxed as stated in the first part of this head-note.—*FOX v. CENTRAL SILKSTONE COLLIERIES, K.B.D.*, 634.

3. *Interpleader—Goods or chattels taken in execution—Proceeds or value thereof—Claimant no title to goods taken—Claim under mortgage for book debts—County Courts Act, 1888 (51 & 52 Vict., c. 43), ss. 156 and 157.*—The high bailiff having taken goods in execution and sold them, D claimed the proceeds under an assignment to him by the judgment creditor of future book debts. The high bailiff interpleaded, and the county court judge gave judgment for the judgment creditor on the ground that the claimant had shewn no title to the goods that had been seized and sold. On that ground he could not establish his claim to the proceeds of sale.

Held, that this decision was right.

Sections 156 and 157 of the County Courts Act, 1888, considered.—*PLANT v. COLLINS, K.B.D.*, 598; 1912, 2 K. B. 459.

4. *Practice—Action of contract—Remitted to county court—Claim amended by addition of claim for tort—Discretion of judge to allow—Jurisdiction of judge to hear—County Court Rules, ord. 14, r. 12, ord. 33, r. 2—County Courts Act, 1888 (51 & 52 Vict., c. 43), ss. 65, 66 and 87.*—Where an action of contract is remitted from the high to the county court, and the particulars of claim are amended so as to add a claim for tort, which if the action had been commenced in the county court could have been brought therein, the county court judge has jurisdiction to try the claim as amended, but it is a matter for his discretion whether he will allow the amendment to be made.—*SPRING v. FERNANDEZ, K.B.D.*, 110; 1912, 1 K. B. 294.

5. *Practice—Claim for less than £2—Action tried before registrar—Application to judge for new trial—Power of judge to order—Leave by judge to appeal to High Court from registrar—County Courts Act, 1888 (51 & 52 Vict., c. 43), ss. 92, 93, 120.*—Where an action in the county court has been tried before the registrar under section 92 of the County Courts Act, 1888, the judge has jurisdiction to order a new trial under section 93 of the Act.—*ROSIN v. JOSEPH RANK (LIMITED), K.B.D.*, 597.

See also Bankruptcy, Practice.

CRIMINAL LAW:—

1. *Appeal from Court of Criminal Appeal to House of Lords—Power to grant legal aid—Criminal Appeal Act, 1907 (7 Ed. 7, c. 23), ss. 1 (6), 10 and 21.*—The Court of Criminal Appeal, sitting as a single judge, has power to grant an appellant legal aid under section 10 of the Criminal Appeal Act, 1907, on an appeal from a decision of the Court of Criminal Appeal to the House of Lords, where the Attorney-General has granted his certificate under section 1 (6) of that Act.—*REX v. LEACH, C.C.A.*, 311.

2. *Appeal from Court of Criminal Appeal to House of Lords—Whether wife of prisoner is a compellable witness—Criminal Evidence Act, 1898 (61 & 62 Vict., c. 36), s. 4 (1).*—The wife of a prisoner in the dock is not a compellable witness within section 4 (1) of the Criminal Evidence Act, 1898.—*LEACH v. DIRECTOR OF PUBLIC PROSECUTIONS, H.L.*, 342; 1912, A. C. 305.

3. *Evidence—Imputation on character of witnesses for prosecution—Nature or conduct of defence—Cross-examination of prisoner as to previous conviction—Criminal Evidence Act, 1898 (61 & 62 Vict., c. 36), s. 1 (j) (ii).*—H was indicted for stealing money and a bank book from the person of the prosecutor, in the bar of a public-house, where others, besides H and the prosecutor, were present. At the trial counsel for H, in cross-examination of two of the above persons, witnesses for the prosecution, suggested that it was they who had robbed the prosecutor.

Held, that this defence involved an imputation on the character of these witnesses within the meaning of section 1 (f) (ii.) of the Criminal Evidence Act, 1898, and that the appellant could be cross-examined as to a previous conviction in accordance with the provisions of the section. The words "unless . . . (ii.) the nature or conduct of the defence is such as to involve imputations . . . must receive their ordinary and natural interpretation, and it is not legitimate to qualify them by adding or inserting the words "unnecessarily" or "unjustifiably" or "for purposes other than that of developing the defence," or other similar words.

Rex v. Bridgewater (49 SOLICITORS' JOURNAL, 69; 1905, 1 K. B. 131) and *Rex v. Preston* (53 SOLICITORS' JOURNAL, 322; 1909, 1 K. B. 568) distinguished.—*REX v. HUDSON, C.C.A.*, 574; 1912, 2 K. B. 464.

4. *Felony—Indictment—Accessory after the fact—"Receive, harbour and maintain."*—L was indicted for that she, well knowing G to have committed a felony, did feloniously "receive, harbour and maintain" him.

Held that this was a good indictment for being an accessory after the fact.

Evidence was given that L, after G's arrest for a coining offence, removed from his workshop utensils such as would be used for making counterfeit coins adducible in evidence against G, and which were, in fact, produced in evidence against him. The judge directed the jury that if they were satisfied that L removed the things knowing that G was guilty of the felony charged, and that she did so for the purpose of assisting him to escape conviction, they should find her guilty on the above-mentioned indictment.

Held, that this was a proper direction.—*REX v. BEATRICE LEVY, C.C.A.*, 143; 1912, 1 K. B. 158.

5. *Forgery—Acceptance of bill of exchange in name of firm—Names of both partners constituting name of firm—Acceptance "in the name . . . of any other person"—Forgery Act, 1861 (24 & 25 Vict., c. 98), s. 24.*—A firm consisted of two partners, H and F, whose firm name was "H & F." H, without authority and without honest belief that he had authority, and with intent to defraud, accepted a bill of exchange drawn on the firm, as follows: "Accepted payable London and Westminster Bank (Limited), London.—H & F." The bill was accepted for the purpose of raising money for H's own benefit, and was applied to such purpose.

Held, that although the appellant had accepted the bill in the firm name he had accepted the bill in the name of an "other" person—namely, F—within the meaning of section 24 of the Forgery Act, 1861.—*REX v. HOLDEN, C.C.A.*, 188; 1912, 1 K. B. 483.

6. *Fraud on bookmaker—Cut-out-cover letter—Forged instrument—Forgery Act, 1861 (24 & 25 Vict., c. 98), s. 38.*—By means of a cut-out-cover letter the appellant and three others obtained an envelope with a postmark upon it dating the time of transmission as before the start of a horse-race, and they dispatched this envelope by the agency of one of their number, a postman, to a bookmaker after the result of the race had been ascertained, enclosing in it a betting slip purporting to make a bet on that race with the intent to defraud the bookmaker.

Held, that the envelope and betting slip sent to the bookmaker constituted an instrument within the meaning of section 38 of the Forgery Act, 1861, and that it had been "forged" within the meaning of that section.—*REX v. HOWSE, C.C.A.*, 225.

7. *Indecent assault—Age of girl assaulted under thirteen—Necessity of averring in indictment—Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 52—Criminal Law Amendment Act, 1880 (43 & 44 Vict., c. 45).*—An indictment for an indecent assault on a girl, if the girl is under the age of thirteen years, is not bad for want of an averment of the age of the girl.

But, as a matter of good drafting, the age of the girl should be averred because of the presumption of age created thereby, under the provisions of section 123 (2) of the Children Act (8 Ed. 7, c. 67).—*REX v. STEPHENSON, C.C.A.*, 764.

DAMAGE:—

Land—Embankment raised by owner to protect against flood—Consequent damage to other land—Dammum absque injuria.—Every owner of land is entitled, provided he acts with reasonable care and skill, and provided he uses only reasonable and usual means for that purpose, to do what is necessary to protect himself or protect his land against damage by anticipated flood. Accordingly, where a landowner erects an embankment on his own ground to prevent natural flooding waters which by the lie of the ground would come upon his land from doing so, and in consequence the water floods other land and does damage, it is a case of *dammum absque injuria*.—*MASSEY DRAINAGE BOARD v. GREAT NORTHERN RAILWAY, K.B.D.*, 275.

DEBT:—

1. *Bankruptcy—Discharge—Contract to pay debt barred by discharge—Administration—Proof of debt—Contract—Consideration—Conflict of laws—Contract valid by Italian law, but void by English law for want of consideration.*—A bankrupt, after obtaining his discharge, signed a document called a *privata scrittura*, by which he agreed to pay a debt provable in the bankruptcy, but not disclosed. By Italian law such a *privata scrittura* is legally enforceable, but by English law it is void for want of consideration.

The bankrupt died, and a decree was made for the administration of his estate.

Held, that the creditor was entitled to prove for the debt in the administration.

Decision of Eve, J. (*ante*, p. 504) reversed.—*RE BONACINA, C.A.*, 687.

2. *Release—Deduction of debts from settled legacies—Appointment of debtor as executor.*—A testator by his will in 1908 gave a legacy to be settled on the wife of M and her children,

and directed that any debts due from M to him should be credited against the legacy. A ledger kept by the testator shewed a balance due from M of £9,800. In 1907 there was an entry that £5,000 had been given off this debt for an object arranged with the wife of M, and in 1909 another entry, "This debt is absolutely cancelled from this date, viz., £4,800 and interest." The will appointed M as one of the executors.

Held that M was accountable for the £5,000, but not for the £4,800.

Decision of Eve, J. (*ante*, p. 274), affirmed in part and reversed in part.—*RE PINK, C.A.*, 668; 1912, 1 Ch. 498.

See also Will.

DISTRESS.—See Landlord and Tenant.

DIVORCE:

1. *Cross matrimonial suits—Cross-examination as to adultery—Evidence Further Amendment Act, 1869 (32 & 33 Vict., c. 68, s. 3)—Practice.*—Where a wife had in her suit sworn an affidavit verifying the truth of the charges in her petition for a judicial separation, it was

Held, that notwithstanding the provisions of the Evidence Further Amendment Act, 1869, she could be cross examined as to her alleged adultery charged in her husband's petition, before she had denied it in the witness-box.—*LEWIS v. LEWIS, P.D.*, 189; 1912, P. 19.

2. *Decree nisi—Application by petitioner for rescission—Judicial separation granted in lieu thereof.*—Where a wife-petitioner had been granted a decree nisi dissolving her marriage, and eighteen months later desired a decree of judicial separation in lieu of it, the court granted the application, without requiring to know the reason for the change.—*GRIFFITHS v. GRIFFITHS, P.D.*, 364.

3. *Decree nisi—Intervention by King's Proctor—Matrimonial Causes Act (23 & 24 Vict., c. 144, s. 7), 1860—Matrimonial Causes Act (29 & 30 Vict., c. 32, s. 3), 1866—Discretion of court—Matrimonial Causes Act (20 & 21 Vict., c. 85, s. 31), 1857—Material facts defined.*—It is difficult and impracticable for the court to lay down any definite rule as to the exercise of its discretion under section 31 of the Matrimonial Causes Act, 1857, but it is important that all the "material facts," which the court ought to know before it can determine how the discretion should be exercised, should be laid before it at the first.—*BROOKE v. BROOKE, P.D.*, 382, 1912, p. 139.

4. *Delay in taking proceedings—Discretion to refuse decree—Matrimonial Causes Act, 1857, s. 31.*—A wife became entitled to take proceedings for divorce on the ground of adultery and desertion in 1900. Proceedings were not taken till 1911. The delay resulted from disinclination and not from poverty, and it was admitted that the motive for taking proceedings was that the husband might be enabled to marry the woman with whom he was living.

Held, that the judge might properly take this motive into consideration in deciding whether or not the delay was reasonable, and that his discretion could not be interfered with.

Decision of Evans, P. (*ante*, p. 596) affirmed.—*PEARS v. PEARS, C.A.*, 720.

5. *Petition by wife—Respondent out of England—Order to pay costs and give security for further costs—Order not served on respondent—Respondent's interest in reversion—Injunction restraining any dealing with reversion.*—Where a respondent had been ordered to pay certain costs and give security for further costs of wife-petitioner, the court granted an injunction restraining any dealing with funds in which he had a reversionary interest, notwithstanding that he was out of the country and had not been served with the order.—*DOOLEY v. DOOLEY, P.D.*, 207.

6. *Settlement under Divorce Act, 1857, s. 45—Variation of settlements under Divorce Act, 1859, s. 5—Restraint on anticipation imposed by will—Lis pendens.*—A wife divorced for misconduct was entitled to a life interest in property bequeathed by her father's will subject to a restraint on anticipation during coverture. A petition was presented by the husband for a settlement on the child of the dissolved marriage of part of the income arising from the property. The wife remarried after service on her of the petition, but before the hearing.

Held that there was no jurisdiction to order a settlement of income to which the restraint had attached on the second marriage, and that the doctrine of *lis pendens* had no application to the case.

Decision of Sir S. Evans, P. (*ante*, p. 275; 1912, P. 86) reversed.—*LORRAINE v. LORRAINE, C.A.*, 687; 1912, P. 86.

7. *Wife's petition—Adultery and cruelty—Decree nisi rescinded on King's Proctor's intervention—Petition for divorce by husband—Discretion of the court.*—The court exercised its discretion in

favour of a husband-petitioner who, though guilty of both cruelty and adultery, had given a straightforward account of his married life, and it being satisfied that the wife had condoned the matrimonial offence.—*WOLTERECK v. WOLTERECK, P.D.*, 706.

EASEMENT:—

Right of way—Right of user for horses and carriages—Alteration of mode of user—Private house altered to hotel—Motor-cars—Unrestricted grant.—In 1883 it was verbally agreed between P and F the owners of adjoining property, that F should enjoy a right of way through a gateway and along a private lane on P's property to and from F's property, which was occupied as a private dwelling-house, and the main road; and from that time the said lane and gateway were used by F and his successors in title for foot passengers and horses and carriages as of right. In 1911 the defendants, F's successors in title, turned the dwelling-house into an annexe of their hotel, enlarged the gateway, and used the gateway and lane for the purposes of driving motor-cars and carriages belonging to visitors at the hotel to a garage that had been built in the grounds of the annexe. In an action by the plaintiff, P's successor in title, for an injunction to restrain the defendants from so using the lane,

Held, that the defendants' right of way over the lane in question was not to be restricted to user for the purposes for which user would be required at the time of the grant, but that the defendants were entitled to an unrestricted right of way.

Semble: a grant of a right of way for horses and carriages includes a grant of right of user for motor-cars.—*WHITE v. GRAND HOTEL, EASTBOURNE, Joyce, J.*, 480.

ECCLESIASTICAL LAW:—

Marriage with deceased wife's sister—"Open and notorious evil lives"—Repulsion from Holy Communion—Monition—Deceased Wife's Sister Marriage Act, 1907, s. 1.—By section 1 of the Deceased Wife's Sister Marriage Act, 1907, "No marriage heretofore or hereafter contracted between a man and his deceased wife's sister, within the realm or without, shall be deemed to have been or shall be void or voidable as a civil contract, by reason only of such affinity; provided always that no clergyman in Holy Orders of the Church of England shall be liable to any suit, penalty, or censure, whether civil or ecclesiastical, for anything done or omitted to be done by him in the performance of the duties of his office to which suit, penalty, or censure he would not have been liable if this Act had not been passed."

The appellant, a clergyman of the Church of England, had been admonished for refusing to administer Holy Communion to the respondent, who had married his deceased wife's sister, and sought to have the decree of monition set aside, contending that the proviso of the above section applied.

Held, that notwithstanding the proviso, such a marriage, being now valid for all purposes, no longer constituted a lawful cause justifying a clergyman in refusing to admit the married persons to Holy Communion, as such persons were not "open and notorious evil lives" so that the congregation were thereby offended within the meaning of the rubric prefixed to the order of administration of the Lord's Supper or Holy Communion in the Book of Common Prayer.

Decision of Court of Appeal (*sub nom. REX v. DIBDIN, Ex parte Thompson*, 1910, P. 57) affirmed.—*THOMPSON v. DIBDIN, H.L.*, 647.

EDUCATION:—

1. *Employment of school teacher—Elementary school not provided—Religious teaching—Managers' power of dismissal—"Grounds connected with the giving of religious instruction"—Education Act, 1902 (2 Ed. 7, c. 42) s. 7, 1 (c).*—The managers of an elementary Church of England school not provided by the local education authority gave notice to a school teacher to determine her employment under section 7, sub-section 1 (c) of the Education Act of 1902 "on grounds connected with the giving of religious instruction in the school." It was not alleged that any objection could be taken to the religious instruction given by the teacher, but it was alleged that she had ceased to be a member of the Church of England, and was now a member of the Wesleyan Church.

Held, that it was necessary, in order that the dismissal might be valid under the section, not merely that the managers should think in their own minds that the ground was one connected with the giving of religious instruction, but that the ground must be in fact such a ground. This was not a ground connected with the giving of religious instruction.—*SMITH v. MACNALLY, Warrington, J.*, 397; 1912, 1 Ch. 816.

2. *Provided school—Injury to scholar—Leaving dangerous material unguarded in school playground—Negligence of local education authority and of contractor effecting repairs.—A*

contractor, employed by the London County Council, acting as the education authority, to do certain repairs to the ceilings of a public elementary school, left a quantity of rough stuff composed of lime, sand and hair in a heap in a corner of the school playground. The headmaster of the school instructed the school caretaker to have the stuff removed, as he considered it dangerous for the boys. The caretaker telephoned to the contractor to remove it, but this was not done. The teachers prevented the boys interfering with the stuff while they were in the playground during the day; but when the boys went home in the evening it was left unguarded, and boys got "snowballing" with it, and the plaintiff was injured in his eye from some of it being thrown into his face.

Held, that there was evidence upon which a jury could find both the education authority and the contractor had been guilty of negligence.

Decision of Bray, J. (reported 28 Times L. R. 66; 10 L. G. R. 75), affirmed.—*JACKSON v. LONDON COUNTY COUNCIL, C.A., 428.*

3. *School—Managers—Validity of appointment—Dismissal of teacher—Powers of managers—Education Act, 1902, First Schedule, B. (3).*—By a final order made under the Education Act, 1902, the managers of a school were to be members of the Church of England, and no person should be entitled to act as manager until he had signed a declaration to that effect. The persons appointed managers were members of the Church of England, but had not signed the required declaration.

Held, that the clause as to the declaration was not an absolute prohibition, but a qualification within the Education Act, 1902, First Schedule, B (3), and therefore the managers were entitled to act as such although they had not signed the required declaration.—*MEYERS v. HENNEL, Eve, J., 538; 1912, 2 Ch. 256.*

ELECTION LAW :—

1. *Parliamentary registration appeal—Service franchise—Master rated and paying rates—Objection on that ground—Representation of the People Act, 1867 (30 & 31 Vict., c. 107), s. 7—Poor Rate Assessment Act, 1869 (32 & 33 Vict., c. 41), ss. 3 & 4—Representation of the People Act, 1884 (48 & 49 Vict., c. 3), s. 9(8).*—A servant otherwise entitled to the service franchise does not lose his right to the franchise because his master is rated for the dwelling-house he occupies and pays the rates.—*CHESTERTON v. GORDON, K.B.D., 92; 1912, 1 K. B. 176.*

2. *Parliamentary and municipal registration—Borough—Householder—Payment of poor rate—Representation of the People Act, 1867, ss. 3, 7.*—S was during the qualifying period the inhabitant occupier of the whole of certain premises which formed an ordinary dwelling-house, and were separately rated. The rateable value was £12. Smith's name appeared in the occupier's column of the rate-book, and it was there stated "Assessed upon Occupied—£1 4s." The owner of the premises had in fact paid the poor rate under an arrangement with the town council, by which he paid general district rates at the rate of one-half the net annual value, whether the premises were occupied or unoccupied, and within four months of their being made, the owner undertaking to pay the water charges and also the poor rate to the overseers. It appeared that the demand note for the poor rate was first served on the owner, but that on his failing to pay the occupier would be liable. On objection taken to the name of S being on the register these facts were proved. There was no evidence of any express contract between S and the owner that the owner would pay the poor rate. The revising barrister upheld the objection, holding that S was not a rated occupier within the meaning of the Representation of the People Act, 1867, and that the case was covered by the decision in *Kent v. Fittall* (No. 4). On appeal it was

Held, (1) that S had been rated as an ordinary occupier and (2) had *bona fide* paid the poor rate within the meaning of section 3 (3) and (4) of the Representation of the People Act, 1867.—*SMITH v. NEWMAN, K.B.D., 16; 1912, 1 K. B., 162.*

ELECTRIC LIGHTING :—

Corporation—Supply of electricity—Sale of electric fittings—Ultra vires—Electric Lighting Acts, 1882 and 1888.—A corporation who have obtained powers to supply electric energy under a provisional order made under the Electric Lighting Act, 1882, cannot carry on business of sale or hire of fittings and apparatus for the use of the energy thus supplied by them.

Attorney-General v. Leicester Corporation (1910, 2 Ch. 359) followed.—*ATTORNEY-GENERAL v. SHEFFIELD CORPORATION, Eve, J., 326.*

ESTATE DUTY.—See Revenue.

EVIDENCE :—

1. *Action to recover possession—Strip of land by side of highway—Waste of manor—Evidence of acts of ownership over contiguous*

land—Reputation.—The plaintiffs, as lords of a manor, claimed a strip of land by the side of a highway as part of the waste of the manor. They did not prove acts of ownership over the land in dispute, but tendered evidence of acts of ownership over the contiguous land.

Held, that the plaintiffs, having failed to prove that the disputed land was within the manor, could not adduce as evidence of their title acts of ownership over the contiguous land, and therefore the action failed.—*LEEKE v. MAYOR, &c., of PORTSMOUTH, Eve, J., 705.*

2. *Corroboration—Previous statement admitted to corroborate testimony in the box—Circumstances precluding motive to misrepresent.*—The co-respondent, having given evidence that he had not committed adultery with the respondent, a letter written by him to the respondent, at a date subsequent to that on which adultery was now alleged to have taken place, but previous to any charge having been made, in which he referred to the fact that he had not "held her in his arms" since her marriage, was relied on to prove the truth of the fact stated in corroboration of the testimony of the co-respondent in the box.

Compare *R. v. Parker* (3 Douglas, 242, at p. 244); *Sir W. D. Evans, in his Notes to Pothier on Obligations, Vol. ii., p. 251.*—*O'GORMAN v. O'GORMAN, P.D., 634.*

EXECUTORS :—

1. *Assignment of onerous lease by executors—Sum paid to assignees in consideration of their covenanting to indemnify the executors—Are such assignees "purchasers" within the meaning of section 27 of Lord St Leonards Act (22 & 23 Vict., c. 35).*—The word "purchaser" has many different meanings in law. The proper meaning of the word in section 27 of Lord St Leonards Act is best discovered by reference to the practice of the court in those old cases of the rights of executors to be indemnified, the hardship of which led to the passing of that section of the Act. The principle in those cases that the court, in directing an indemnity, to be given to executors, looks at the reasonable probability of there being any further demands against the estate, leads to the inference that the word "purchaser" in section 27 of Lord St Leonards Act means a person who pays for a thing of value, and could not be taken to include a person receiving a consideration for taking an assignment of an onerous lease.—*RE LAWLEY, Swinfen Eady, J., 13; 1911, 2 Ch. 530.*

2. *Express trustee—Law of Property Amendment Act, 1860 (23 & 24 Vict., c. 38), s. 13—Ear-marking entries.*—The mere fact that an executor, who is not also appointed a trustee by the will, retains a fund to answer the claim of a particular next-of-kin, is not enough to turn the executor into an express trustee of the fund, but if, in addition, he ear-marks the fund as the fund of the particular next-of-kin, and uses express words which shew that he intends to hold the fund, not for himself but for the persons entitled to it, he does become an express trustee of the fund.—*RE GOMPERTZ, Warrington, J., 11.*

3. *Pledge of personalty by one of two executors and trustees—Executor functus officio—Pledge not made in character as executor.*—If an executor, who is in fact at the time *functus officio*, wrongfully pledges a chattel which belonged to the testator's estate, not in his capacity as executor, but as a private individual, the pledgor is in no better position than in the case of a private individual pawning property of which he has wrongfully obtained possession, and cannot rely on the doctrine that if the pledge had been made by the pledgor, in his capacity as executor, the pledgee would not have been bound to inquire into his authority.—*SOLOMON v. ATTENBOROUGH, C.A., 270; 1912, 1 Ch. 151.*

4. *Power over realty—Sale of surface—Minerals reserved—Sanction of court—When necessary—Land Transfer Act, 1897 (60 & 61 Vict., c. 65), s. 2 (2)—Trustee Act, 1893 (56 & 57 Vict., c. 53), s. 44—Trustee Act, 1893, Amendment Act, 1894—The Confirmation of Sales Act (25 & 26 Vict., c. 108), s. 2.*—The power of an executor over the real estate of his testator is, since the Land Transfer Act, enlarged, and he has now the same power in dealing with it as he previously had in dealing with the personal estate. His power of realizing the estate for the benefit of creditors is paramount to the provisions of the will. The phrase trustee "or other person" in section 44 of the Trustee Act, 1893, does not include an executor.—*RE CAVENDISH AND ARNOLD, Neville, J., 468.*

See also Bankruptcy, Debt, Will.

FISHERY :—

1. *Canal—Reservation to landowners of right to fish—Right to use towing path—Right appurtenant or in gross—Right passing under general words in conveyance—6 Geo. 3, c. xcvii.*—By a private Canal Act it was provided that the owners of land through

which the canal was made should be entitled to a right of fishery in the canal, but so as the towing path should not be thereby prejudiced or obstructed. Part of such land was in 1845 conveyed to a purchaser, who leased the fishery to a club, of which the defendant was a member.

Held, that the right to fish carried with it the right to use the towing path.

Held also, that the fishery was a fishery in gross and did not therefore pass under the general words in the deed of 1845.—*STAFFORDSHIRE AND WORCESTERSHIRE CANAL NAVIGATION v. BRADLEY, Eve, J., 91.*

2. *Disturbance—Trap or fired engine—Opening sluices—Drawing off water—Action for injunction notwithstanding penalties—Salmon Fishery Acts.*—A lessee of a salmon fishery can maintain an action for an injunction to restrain a disturbance of his fishery notwithstanding that the acts constituting such disturbance are offences for which pains and penalties are prescribed by the Salmon Fishery Acts.—*Stevens v. Chown (1901, 1 Ch. 894) applied.*—*FRASER v. FEAR, Eve, J., 311.*

FRAUDS, STATUTE OF:—

What is an interest in land?—What is a contract to be performed within a year?—Statute of Frauds (29 Car. 2, c. 3), s. 4.—A verbal agreement by a wife to keep her husband indemnified in respect of the rent of a house is not an agreement or contract to which section 4 of the Statute of Frauds applies.—*RE BANKS, Neville, J., 362.*

See also Contract.

GAS:—

Gas company—Laying pipes in highway—Tunnel under highway—"Building"—Right of company to interfere with tunnel—Gas Works Clauses Act, 1847, ss. 6-12.—The owner of land on both sides of a highway made a tunnel under the road to connect the two properties. A gas company having to lay pipes in the highway, laid them through the tunnel.

Held, that the tunnel was a building within the meaning of section 7 of the Gas Works Clauses Act, 1847, and therefore the gas company had no power to lay pipes through it.—*SCHWEDER v. WORTHING GAS LIGHT AND COKE CO., Eve, J., 53; 1912, 1 Ch. 83.*

HABITUAL DRUNKARD:—

Order for judicial separation by justices—Licensing Act, 1902 (2 Ed. 7, c. 28, s. 5)—Habitual Drunkard Act, 1879 (42 & 43 Vict. c. 19, s. 3)—Wife's appeal—Definition of habitual drunkard considered.—Justices are not entitled to find that a person is a habitual drunkard within the meaning of the Habitual Drunkards Act, 1879, unless they are satisfied that by reason of the habitual intemperance the person charged is dangerous at times to himself or herself or to others, or is incapable of managing himself or herself and his or her affairs. It is necessary to prove that, though a person may be excessively intemperate and violent at times, the acts of violence were brought about by reason of the intemperance.—*TAYLER v. TAYLER, P.D., 572.*

HEIRLOOMS:—

Application by tenant for life to sell—Insufficiency of income—Interests of succeeding tenants.—The court will not sanction the sale of heirlooms for the personal benefit of the tenant for life unless it can be shewn that it would also be a benefit to his successors.—*RE SEBRIGHT, Warrington, J., 240.*

HIGHWAY:—

Dedication—Roadway not made up to full width—Unmade strip—Alleged dedication as footpath—User by public—Right of access by owner of adjoining property—Access for all purposes.—R was owner of land including a street called K-road, lying to the south of, and adjoining land belonging to the plaintiff, separated therefrom by a fence. The south side of the K-road was built upon, having between the houses and fence a roadway, half which only was made up. In 1908 K-road was thrown open to the public, and was since then used by foot-passengers and vehicles without objection by R. In 1912 the plaintiffs removed a portion of the fence, so as to permit of egress and ingress through the opening for the purpose of conveying building materials on to their land from K-road. R thereupon blocked up the opening so made, alleging that K-road was a private road, and that the plaintiffs had no right of access thereto; that K-road had never been dedicated as a highway, or, alternatively, the unmade strip adjoining the fence had not been dedicated, or dedicated only as a footpath. In an action by the plaintiffs for a declaration that the defendant was not entitled to prevent the plaintiffs from entering their land from K-road, and an injunction,

Held, that the defendant must be presumed to have dedicated the whole width of the road as a highway, so that the plaintiffs, as owners of adjoining property, were entitled to access for all purposes.—*TOTTENHAM URBAN DISTRICT COUNCIL v. ROWLEY, Joyce, J., 537.*

HUSBAND AND WIFE:—

1. *Deed of separation—Recital of agreement to pay wife 5s. a week during life, so long as she remained chaste—Absolute covenant to pay 5s. per week on the Saturday of each week—Construction.*—A deed of separation between husband and wife recited that the husband agreed to allow his wife "the sum of 5s. per week for her maintenance during her life, so long as she shall remain chaste, such weekly payments to commence as from the 5th of February, 1910," and continued "whereas the said parties have agreed to enter into such arrangement as is hereinafter contained. Now this indenture witnesseth that for effectuating the said agreement, and in consideration of the premises he, the said W C, doth hereby covenant . . . that he, the said W C, will duly and punctually pay, or cause to be paid, the said sum of 5s. per week to the said Emily Jane C, or to such person as she shall from time to time authorize to receive the same, on Saturday in each week."

Held, that the recital being clear and particular, and the covenant being general and ambiguous, the recital governed the construction of the deed.—*CROUCH v. CROUCH, K.B.D., 188; 1912, 1 K. B., 378.*

2. *Separation deed—Covenant by husband to pay weekly sum to wife—Bankruptcy of husband—Discharge—Action by wife to recover arrears—Future payments.*—A covenant by a husband in a separation deed to pay his wife a weekly sum is a contractual obligation which is provable in his bankruptcy and, consequently, after his discharge, and the wife cannot maintain an action either for arrears or for future payments.—*VICTOR v. VICTOR, C.A., 204; 1912, 1 K. B., 247.*

INCLOSURE ACT:—

Lords of the manor—Commons and waste of the manor—Open fields—Underlying minerals—Compensation for "Rights to the soil"—Recital of title—Saving clause—Award—Allotments in fee simple—Whether minerals reserved—Norton Inclosure Act, 1814 (54 Geo. 3, c. 136), Preamble; ss. 12, 28, 66.—The preamble of an Inclosure Act recited that the Master and Fellows of St. Catherine's College as Lords of the Manor of Norton, were owners of the soil of the commons and wastes within that manor and of the mines and minerals therein.

Held, that an award of land by the Commissioners in respect of rights and interests in and to the soil of the said commons and wastes only passed the soil in the restricted sense of the surface of the soil, and did not pass the mines and minerals thereunder, which accordingly remained vested in the plaintiffs as lords of the manor.—*ST. CATHERINE'S COLLEGE, CAMBRIDGE v. GREENSMITH, Neville, J., 551.*

INDUSTRIAL SOCIETY:—

Nomination of property by members—Sum not exceeding £100 at time of nomination—Sum exceeding £100 at time of death—Validity of nomination—Provided the amount does not "then" exceed £100—Industrial and Provident Societies Act, 1893, s. 25.

—A member of an industrial society registered under the Friendly Societies Acts nominated the plaintiff as the person to whom, on his death, his property in the society should be transferred. At that time the nominator had £98 13s. standing to his credit, but at the date of his death that sum with added interest exceeded £100.

By section 25 (1) of the Industrial and Provident Societies Act, 1893, a member of a registered friendly society may nominate a person to whom his property in the society shall be transferred on his decease, "provided the amount credited to him in the books of the society does not then exceed £100."

Held, that the time at which the limit of amount fixed by the section was to be taken, was the date of the nomination, and not the date of the nominator's death.

Decision of Court of Appeal (Farwell, L.J., dissenting) (55 SOLICITORS' JOURNAL, 440; 1911, 2 K.B. 275) affirmed.—*ECCLES PROVIDENT INDUSTRIAL SOCIETY v. GRIFFITHS, H.L., 259.*

INFANT:—

Contract—Infant trader—Liability on trading contract—Action for money had and received—Liability ex delicto.—An infant trader cannot be sued upon a trading contract, such a contract not coming within the category of contracts which as being made for his benefit are enforceable against him.

Upon a claim for money had and received against an infant, if it appears that the money was obtained *ex delicto* and not *ex contractu*, the infant may be held liable.—*COWERN v. NIELD, K.B.D., 552.*

INSURANCE:—

1. *Marine—Construction—Total loss—Institute time clauses.*—The plaintiff took out a policy of marine insurance, attached to which was the following clause:—"In the event of total loss, whether absolute or constructive, of the steamer, the amount underwritten by this policy shall be paid in full, whether the steamer be fully or only partly loaded, or in ballast, chartered or unchartered." During the voyage the vessel became a constructive total loss, but was subsequently towed to a port where she discharged cargo, and the plaintiff received payment of freight. In an action to recover on the full amount of the policy,

Held, that the underwriters were entitled to credit for the freight received by the assured.—*COKER v. BOLTON, K.B.D.*, 751.

2. *Marine—Constructive total loss—Value of wreck—Marine Insurance Act, 1906 (6 Ed. 7, c. 41), ss. 60 & 91 (2).*—A policy of reinsurance was expressed to be against the risk of total or constructive total loss only. The plaintiff claimed that a vessel was a constructive total loss by reason of the fact that the cost of repairing her, plus the cost of salvage and other expenses, plus the value of the unrepaired wreck, would exceed the repaired or insured value.

Held, that under the provisions of the Marine Insurance Act, 1906, sections 60 and 91 (2), the value of the unrepaired wreck could not be taken into account.

Macbeth v. Maritime Insurance Co. (1208, App. Cas. 144) discussed.—*HALL v. HAYMON, K.B.D.*, 205; 1912, 2 K. B. 5.

3. *Marine—Policy as freight—"Chartered or as if chartered"—Loss of freight—Concealment of material fact.*—A policy of insurance for £2,000 was expressed to be "upon freight of frozen meat, and/or apples, and/or other refrigerated produce valued at £15,000 chartered or as if chartered, on board or not on board . . . in the ship or vessel called the *Ayrshire* . . . Warranted free from any claim consequent on loss of time, whether arising from a peril of the sea or otherwise, but this clause only to apply in cases where the vessel is fulfilling a special charter containing a cancelling date."

In an action to recover in respect of a loss of freight,

Held, that the expression, "as if chartered," did not extend the freight covered to the anticipation of freight under contracts which did not exist at the material time . . .

Held, also, that the concealment from the defendants of the fact that by the terms of a certain contract freight was liable to be lost if the steamer did not arrive at a port on a certain date was concealment of a material fact which entitled the defendants to avoid the policy.—*SCOTTISH SHIRE LINE v. LONDON AND PROVINCIAL INSURANCE CO., K.B.D.*, 551.

4. *Reinsurance—Alteration of risk—Liquidation of company which is the original insurer—Liability of reinsurer.*—When a reinsurer is bound by a contract of reinsurance, so that his liability commences simultaneously with that of the insurer, and follows it in every case, and all settlements of claims made by the insurer, whether by payment or otherwise, are to be unconditionally binding on the reinsurer, then the risk undertaken by the reinsurer is that which is undertaken by the original insurer, and the liquidation of the company which is the original insurer is not an alteration of the risk undertaken, and does not absolve the reinsurer from liability under contract of reinsurance.—*LAW GUARANTEE TRUST AND ACCIDENT SOCIETY v. MUNICH REINSURANCE CO., Warrington, J.*, 108; 1912, 1 Ch. 138.

INTERPLEADER:—

Order directing interpleader issue—Application for by defendants after judgment.—The defendant in an action consented to judgment being entered against him for an agreed amount, and afterwards applied for an order that an interpleader issue might be directed as to a claim between the plaintiffs and a third party.

Held, that he was too late, and that there was no jurisdiction to order an issue after judgment.—*STEVENSON & SON v. BROWNELL, C.A.*, 571.

JOINT ACCOUNT:—

Money on deposit in joint names—Father and daughter—Survivorship—Presumption of resulting trust rebutted.—Where money is placed on deposit by a father in the joint names of himself and his daughter to be paid out to the survivor, the relationship rebuts the presumption of a resulting trust, and the daughter takes beneficially by survivorship.—*RE WARWICK, Parker, J.*, 253.

JOINTURE:—

Power of appointment—Power to appoint clear of all charges and outgoing whatsoever—Liability to estate duty.—In exercise of a power under a settlement whereby C. was empowered to appoint

by way of jointure to his wife an annual sum not exceeding £3,000 clear of all charges and outgoing whatsoever, C. executed a settlement appointing the said sum, not expressly clear of all charges and outgoing. On the death of C.,

Held, that the jointure so appointed was clear of all charges and outgoing, and therefore free from estate duty.—*RE EARL CADOGAN'S SETTLEMENTS, Joyce, J.*, 11.

JUSTICES:—

Appeal to quarter sessions from conviction—No appearance for appellant at quarter sessions—Appellant ordered to pay costs—Certiorari—Criminal cause or matter—Jurisdiction—Judicature Act, 1873, s. 47.—An order of justices made in a criminal cause or matter within section 47 of the Judicature Act, 1873, is not an order for the payment of a civil debt, and therefore the court has no jurisdiction to hear an appeal against such order.—*REX v. JUSTICES OF WILTSHIRE, C.A.*, 343; 1912, 1 K. B. 566.

LANDLORD AND TENANT:—

1. *Agreement to let for seven years—No lease—Entry into possession—Action for rent commenced before expiration of term—Hearing subsequent.*—The plaintiff agreed in writing to let certain premises to the defendant for seven years. The defendant entered into possession, but subsequently, with the consent of the plaintiff, assigned his interest in the agreement and premises. No lease of the premises was ever granted. Shortly before the expiration of the term the plaintiff commenced an action against the defendant for three quarters' rent, but this action was heard after the expiration of the seven years.

Held, that specific performance of the agreement would have been granted, and that the action was maintainable.—*GILBERT v. COSSEY, K.B.D.*, 363.

2. *Covenant not to alter premises without landlord's consent—"The like consent"—Consent reasonably withheld—Building in London square.*—A lessee covenanted with his lessor not to sublet without the lessor's previous consent in writing, such consent not to be unreasonably withheld, and not "without the like consent" to make any alteration to the demised premises, which consisted of the gardens in the centre of a London square. The lessee subsequently proposed to erect a building in the said square, to which the lessor refused his consent.

Held, that the lessor was precluded from withholding his consent unreasonably to any proposed alteration by the lessee, but that in the circumstances his consent to the proposed alteration was reasonably withheld.—*CARTWRIGHT v. RUSSELL, Joyce, J.*, 467.

3. *Covenants—Power to determine lease on notice—Assignments—Assignee's covenant to indemnify assignor—Notice to determine by equitable owner of term—Outstanding legal estate—Breaches of covenant—Condition precedent—Invalid notice—Estoppel—Third party notice to indemnify—Assignment as "beneficial owner"—Implied covenants for title—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), s. 7, sub-section 1 (a)—Rectification of assignment.*—A lease for twenty-one years, not to be assigned without licence, and containing a proviso giving the lessee power to determine on giving six months' notice.

Held, a notice to determine given by the equitable owner of the term was invalid when the legal interest in the term was still outstanding in another.

Held, also, that the performance of the lessee's covenants up to the date for determination of the lease mentioned in the notice was a condition precedent to the determination of the lease.

Held, also, that where an assignment was made in pursuance of a written contract, which stated that the legal interest in the residue of the term was outstanding in another, and the assignor nevertheless conveyed as "beneficial owner" he was entitled to have the assignment rectified by inserting therein a proviso limiting his liability under his implied covenants for title.—*STAIT v. FENNER, Neville, J.*, 669.

4. *Distress—Seizure of goods of third parties—Purchase by landlord from himself—Subsequent dealing with goods as owner—Action for conversion—Damages—Distress for Rent Act, 1738 (2 Geo. II., c. 19), s. 19.*—The defendants duly levied a distress for rent in arrear, and seized certain ponies and waggons. The ponies were the property of the plaintiffs, who had an agreement with the tenant of the land demised to get coal there, and the waggons were, at the time of the seizure, lawfully in their possession, having been let to them by X Co. The defendants, after the appraisal of the ponies and the waggons, purported to buy them from themselves, and subsequently acted as their owners. The ponies they used; the waggons they delivered up to the X Co. at their request. The plaintiffs brought an action against the defendants for the conversion of the ponies and the waggons.

Held, that the defendants were liable for the conversion of both waggons and ponies. The sale to themselves being bad in law, their dealing with the goods was illegal, and rendered them liable to the plaintiffs for the full value of the goods. The Distress for Rent Act, 1738, did not apply to the case, for the irregularity or unlawful act of the defendants was not done by them during the distress in their capacity as distrainers, but subsequently when they purported to act as owners after the illegal sale to themselves. —*PLAS-Y-COED COLLIERIES v. PARTRIDGE & Co., K.B.D.*, 327.

5. *Tenancy for two years certain and thereafter from year to year—When determinable—Notice to quit—Tenancy determinable by either party on three months' notice.*—A tenancy "for two years certain, and thereafter from year to year," is determinable on notice expiring at the end of the third year or at the end of any subsequent year.—*RE SEARLE, Neville, J.*, 444; 1912, 1 Ch. 610.

LANDS CLAUSES ACT:—

Compulsory sale—Land Clauses Consolidation Act, 1845, s. 92—Meaning of "or other building."—Under the Land Clauses Consolidation Act, 1845, by section 92 no one shall be compelled to sell a part of a "house or other building or manufactory" who is willing and able to sell the whole.

Held, that a canal is not a "house or other building or manufactory" within the meaning of the section.—*REGENT'S CANAL CO. v. LONDON C.C., Warrington, J.*, 309; 1912, 1 Ch. 583.

See also Costs.

LEASE:—

1. *Arbitration clause—Scope of clause—"These presents."*—A motion was made to stay proceedings in an action which involved the questions of a rectification of a lease and of its construction. The motion was founded on a clause in the lease which provided that any dispute which should arise as to the "construction, meaning or effect of these presents," or as to the rights and liabilities of the parties "under" or "in relation to these presents," should be referred to arbitration.

Held, that rectification was not a matter touching the construction of "these presents," nor the rights or liabilities of the parties "under" or "in relation to these presents."

Held further, that the matter of construction was so bound up with that of rectification that it would be absurd to send it alone for arbitration.—*PRINTING MACHINERY CO. v. LINOTYPE, & Co., Warrington, J.*, 271; 1912, 1 Ch. 566.

2. *Assignment by lessee—Consent of lessor not to be "unreasonably" withheld—Consent refused, except on condition of insertion of restrictive covenant—Consent refused unreasonably.*—The defendants, who carried on business as a cinematograph theatre, granted a lease of premises adjoining their own, the lessees not to assign their lease without consent in writing of the lessors, such consent not to be "unreasonably or vexatiously" refused. The lessees desired to assign, but the lessors refused to consent thereto, except on condition of the insertion in the lease of a covenant not to use the demised premises for the purposes of a cinematograph theatre. Held, that in the circumstances the consent was "unreasonably" refused.—*PREMIER KINKS v. AMALGAMATED CINEMATOGRAPH THEATRES, Joyce, J.*, 536.

3. *Relief against forfeiture—Breach of covenant—Long lease of chapel—Covenant to repair and keep in repair—Structural alterations in adapting premises for theatre—Waste—Conveyancing Act, 1881, s. 14 (2).*—In 1845 a lease was granted of a piece of land, together with a chapel in course of erection thereon, for 99 years, less ten days, from Christmas, 1842, at a rent of £33. The lessees completed the chapel, which under the terms of a trust deed was used for religious worship until 1909. The lease was sold with the sanction of the Charity Commissioners in 1910, and was converted by the purchasers into a cinematograph theatre, which necessitated many structural alterations. Prior to the assignment to the purchasers notice to repair had been served on the then lessee, and had not been complied with, and the reversioner had brought an action for possession. Upon an application by the assignees for relief against forfeiture, the Court of Appeal held (Buckley, L.J., dissenting) that the alterations were breaches of the covenant to repair and keep in repair, and were acts of waste which the court would have restrained by injunction, and that relief could only be granted on the terms of the reinstatement of the premises to their former condition, and that as the applicants were not willing to submit to those terms the application had been rightly dismissed by Horridge, J.

The House being of opinion that there was nothing in the lease which required that the building should be used only as a chapel, and, further, that, although certain trades were forbidden, there was nothing to prevent other trades being carried on, nor was there anything to prohibit internal alterations suitable for such trades, and also that the lessees had undertaken to deposit a

sufficient sum to secure the restoration of this building to its former condition at the end of the lease.

Held, that upon the performance of that offer as a condition of relief an order should be made in the terms suggested by Buckley, L.J.—*HYMAN v. ROSE, H.L.*, 535.

See also Landlord and Tenant, Mortgage, Vendor and Purchaser.

LOCAL GOVERNMENT:—

1. *Bye-laws—Infringement—Erection of houses abutting on public highway—"Laying out a new street"—Public Health Act, 1875 (38 & 39 Vict., c. 55).*—The defendant had erected a row of houses facing a roadway, on the other side of which there were already houses in existence. The defendant did not encroach upon the roadway, but the roadway was not of the width required by the bye-laws under the Public Health Act, 1875, in the case of the laying-out of a new street.

Held, that the defendant had not laid out a new street, and that the bye-laws required a physical and not a metaphorical laying out.—*ATTORNEY-GENERAL v. DORIN, Warrington, J.*, 123; 1912, 1 Ch. 369.

2. *Streets—Sewering by local authority—Temporary obstruction of access to premises—Compensation to owner—Proof of negligence—Finding of arbitrator—Damage for which private person could have been held liable in damages to plaintiff—Work done in exercise of statutory powers—Public Health Act, 1875 (38 & 39 Vict., c. 55), ss. 179, 180, 308.*—Temporary obstruction of access to premises due to the carrying out of a drainage scheme by a local authority, causing such inconvenience and loss of business to the occupier of premises in the street where the works are in progress as, if caused by the act of a private individual, would give a cause of action, is "damage" in respect of which the occupier is entitled to compensation under section 308 of the Public Health Act, 1875.

Decision of Divisional Court (reported 106 L. T. 376), following *Herring v. Metropolitan Board of Works* (1865, 19 C. B. N. 510, 34 L. J. M. C. 224), reversed.—*LINGKE v. CHRISTCHURCH CORPORATION, C.A.*, 735.

LONDON:—

1. *Building—Jurisdiction of Tribunal of Appeal—New building—Protection against fire in—Conditional approval of plans for—No appeal from—Building erected in disregard of condition—Refusal of certificate by Council before occupation—Appeal from—Jurisdiction—London Building Acts (Amendment) Act, 1905 (5 Ed. 7, c. cxi.), ss. 7 and 22.*—Where a building owner does not appeal against a conditional approval of plans for a new building deposited in accordance with section 7 of the London Building Acts (Amendment) Act, 1905, within two months of the conditional approval, but proceeds to erect the new building without complying with the conditions of the approval, and on failing to obtain the certificate of the London County Council under section 7 (2) of that Act that the building has been provided with means of escape from fire, in accordance with the plans conditionally approved, appeals against that refusal, the Tribunal of Appeal have no jurisdiction to decide the question of whether the building has, in fact, been provided with all such means of escape from fire as could be reasonably required, or to admit in evidence and approve fresh plans of the building that has been erected. They have only jurisdiction to determine the question whether the building has been in fact erected in accordance with the plans conditionally approved by the London County Council.—*CLARK v. LONDON COUNTY COUNCIL, K.B.D.*, 125; 1912, 1 K. E. 511.

2. *Rates—Valuation—Provisional list made before approval of quinquennial list—Meaning of "list subsequently made"—Valuation Metropolis Act, 1869 (32 & 33 Vict., c. 67), s. 47.*—In the quinquennial valuation list made in 1905 the plaintiff's licensed premises were assessed at £400 gross value and £334 rateable value. After the passing of the Finance (1900-10) Act, 1910, those premises were inserted in a provisional list, which came into operation on the 30th of June, 1910, in which they were assessed at £319 gross and £266 rateable value. On the 30th of May, 1910, the defendants' common seal was affixed to the new quinquennial valuation list, and the premises were assessed at the same values as in the 1905 list. The plaintiff gave notice of objection to this list, which was finally approved by the Assessment Committee on the 31st of October, 1910, and in it the assessment of the premises was—gross value £180 and rateable value £150. The new quinquennial list came into force on the 6th of April, 1911. On the 12th of April, 1911, the defendants made a general rate, in which the rateable value of the plaintiff's premises was shown as £266, and the plaintiff was rated therefor in the sum of £53 4s.

In an appeal by the Borough Council against a judgment of Warrington, J., in an action claiming a declaration that the

rateable value of their premises was that shewn in the new quinquennial list, and that the plaintiff was entitled to the return of the difference of the amount he had overpaid in consequence of the rateable value of £266 being shewn in the provisional list.

Held, that the valuation list was not "made" within the meaning of sub-section 8 of section 47 of the Valuation (Metropolis) Act, 1869, until it had been approved by the Assessment Committee. Therefore the judgment appealed from in favour of the plaintiff was right.

Decision of Warrington, J. (55 SOLICITORS' JOURNAL, 670), affirmed.—PARRISH v. HACKNEY BOROUGH COUNCIL, C.A., 140; 1912, 1 K. B. 669.

3. *Water supply—Factory—Domestic purposes—Trade purposes—Water supplied for lavatories and water-closets used by employees—Payment on rateable value—Metropolitan Water Board (Charges) Act, 1907* (7 Ed. 7, c. 71, ss. 8, 9, 25).—Water supplied to a factory for sanitary conveniences provided for the employees is a "domestic" supply within the meaning of the Metropolitan Water Board (Charges) Act, 1907, and may be charged for as such under section 9 on the basis of the rateable value of the building.

Decision of Court of Appeal (Vaughan Williams, L.J., dissenting) (55 SOLICITORS' JOURNAL 311; 1911, 2 K. B. 38) affirmed.—COLLEY'S PATENTS v. METROPOLITAN WATER BOARD, H.L., 51; 1912, A. C. 24.

LUNATIC:—

Administration of estate—Alteration of character of property—Purchase of reversion of lease under order of court—Devolution—Conversion—Property passing to heir as realty.—The quasi-receiver of a lunatic's estate, under an order of the Master, purchased the freehold reversion of leasehold property to which the lunatic was beneficially entitled; the Master's order authorizing the purchase making no provision as to the devolution of the property.

Held, that the leasehold interest became merged in the freehold reversion, and as freehold passed, on the death of the lunatic, to the heir at law.—RE SEARLE, RYDER v. BOND, Joyce, J., 613.

See also POOR LAW.

MASTER AND SERVANT:—

1. *Contract of service—Restriction on trade—Dismissal—Cause of action—Motion for injunction.*—It is not competent for a servant to contend that he has been wrongfully dismissed when, instead of being given a week's notice to quit, in accordance with the terms of his contract, he is paid a week's salary and dismissed. Such a transaction does not amount to a wrongful dismissal, coupled with a tender of damages.—W. DENNIS & SONS (LIMITED) v. TUNNARD BROS. & MOORE, Swinfen Eady, J., 162.

2. *Taxicab—Driver told by depot manager to drive him to some destination for his own personal convenience—Accident to third party due to driver's negligence—Liability of company.*—The yard manager of the defendant company ordered one of their taxicab drivers named Bird to take out a certain taxicab belonging to the company from the company's yard, and drive him to a particular house. Bird did as he was told, and did not know that the yard manager had no right to take this particular cab out, or that he wanted it to visit a friend and not for the company's business. By the negligence of Bird the plaintiff was knocked down while attempting to cross the road, and the jury found that the accident was due to the negligence of Bird, who was at the time the servant of the company.

Held, that the verdict and judgment against the company could not be disturbed, since, although the yard manager had no authority to take out a cab, yet Bird was obliged to obey orders given by him, and was a servant of the company acting under the instructions of an official of the company, whose instructions he was bound to obey, and therefore as between the company and a third party the defence that Bird was not acting as their servant when the accident happened failed.—IRWIN v. WATERLOO TAXI-CAB CO., C.A., 720.

3. *Workmen's compensation—Appeal—Before the Act of 1906 came into general operation—Medical reference—Proceedings consequential thereon—Judgment of Court of Session—Jurisdiction of House of Lords to hear appeal—Workmen's Compensation Act, 1906, s. 16 (1).*—The appellant, a mason, while working for the respondent, sustained injuries by accident in November, 1906. By consent, the case was remitted to a medical referee to report on under the Act of 1897. Proceedings followed, in the course of which a specially constituted court of seven judges in the Second Division of the Court of Session, by a majority, decided that the sheriff substitute should have ended the compensation. The workman appealed to this House. By the Workman's Compensation

Act, 1897, a right of appeal from a decision of the Court of Session to the House of Lords is not given. By section 16 (1) of the Workmen's Compensation Act, 1906, it is provided that: "This Act shall come into operation on the first day of July, 1907, but except in so far as it relates to medical references, to medical referees, and proceedings consequential thereon, shall not apply to cases where the accident happened before the commencement of this Act." By sub-section 2 of the same section the Workmen's Compensation Acts, 1897 and 1900, are repealed, but "shall continue to apply to cases where the accident happened before the commencement of this Act except to the extent to which this Act applies to those cases."

Held, that as the accident occurred prior to the 1st of July, 1907, the proceedings were regulated by the law as it stood prior to the Act of 1906, and that the appeal from a judgment of the Court of Session, although it related to a medical referee's report, did not come within the excepting words, and therefore there was no jurisdiction to entertain the appeal.—MACFAY v. ROSIE, H.L., 87.

4. *Workmen's compensation—Appeal—Seaman—Accident—Claim for compensation—Order for detention of ship—Appeal to Divisional Court—Workmen's Compensation Act, 1906* (6 Edw. 7, c. 58), s. 11, *Schedule II.*—An order by a county court judge for the detention of a ship under the Workmen's Compensation Act, 1906, s. 11, is made by him in his judicial character, not as an arbitrator under the Act, and an appeal therefrom lies to the Divisional Court and not to the Court of Appeal.—PANAGOTIS v. "PONTIAC," C.A., 71; 1912, 1 K. B. 74.

5. *Workmen's compensation—Arising in course of employment—Cook—Falling overboard.*—A sea cook while on duty disappeared. There being nothing to shew that his duty required him to leave the galley and go to any part of the ship where he could have fallen overboard,

Held, that it was not possible to infer that the accident arose out of and in the course of his employment.—BURWASH v. OWNERS OF "OXONIAN," C.A., 703.

6. *Workmen's compensation—Arising out of employment—Disobedience—Distinction between doing assigned task in wrong way and doing task not assigned.*—A workman was employed to dig flints in a quarry where there was a trench into which he was forbidden to go. On the evidence his employment was to dig in the quarry, but not in the trench. An accident having caused his death while in the trench,

Held, that his dependants were not entitled to compensation.

Harding's Case and Weighill's Case (1911, 2 K. B. 747, 757) considered.—PARKER v. HAMBROOK, C.A., 750.

7. *Workmen's compensation—Arising in course of employment—Fireman—Falling overboard.*—A fireman during his watch in the tropics disappeared.

Held, that on the facts there was evidence to justify a finding that the man came on deck for air, and that he fell overboard in the course of his employment.—LEE v. STAG LINE, C.A., 720.

8. *Workmen's compensation—Arising out of the employment—Workman surreptitiously riding in tubs from one level to another in mine—Mode of transit expressly forbidden—Workmen's Compensation Act, 1906, s. 1 (1).*—A lad employed at a colliery, on the day of the accident, with some other workmen got into an empty tub on an endless rope to ride to that part of the mine where they were working. This method of transit was expressly forbidden, but if they thought no one was about who would report them, they habitually disregarded the notices posted up; otherwise they walked. On the journey the deceased, who had only been employed a short time at the mine, and had not before transgressed the rule, raised his head at a part where the roof became low and his head was caught between the roof and the top of the tub, and he was killed.

Held, that the accident did not arise out of the man's employment.

Decision of Court of Appeal (Fletcher Moulton, L.J., dissenting) (reported 1910, W. N. 248, 4 B. W. C. C. 43) affirmed.—BARNES v. NUNNERY COLLIERY, H.L., 159.

9. *Workmen's compensation—Average weekly earnings—Calculation of average when payment is by piece and earnings vary.*—A workman was paid in part by piecework, and his earnings fluctuated according as work was plentiful or not.

Held, that in calculating his average weekly earnings, the judge must include all weeks of a year except holidays, and must not exclude weeks where the earnings were small.—WHITE v. WISEMAN, C.A., 703.

10. *Workmen's compensation—Average weekly earnings—Grade—Casual employment.*—An injured workman was employed for some months as a casual carter; for ten days prior to the accident he was employed as a teamster at a higher wage. The county

court judge found that the latter employment was casual and did not involve a change of grade within the meaning of section (2) (a) of schedule I. to the Act of 1906, and took all the wages earned in both capacities into account in calculating the average earnings.

Held, that there had been no misdirection, and that the finding could not be upset.—*EDGE v. GOETON, C.A.*, 719.

11. *Workmen's compensation—Average weekly earnings—Temporary employment in higher grade.*—A mate, after being injured, was employed as watchman and hobbler. His son, who was also a mate, was injured, and the father was given his job until the son should recover. The father having been drowned, the judge, in assessing the compensation to dependants, treated the employment as that of a mate.

Held, that this was not a proper inference from the above facts.—*JURY v. OWNERS OF "ATALANTA," C.A.*, 703.

12. *Workman—Compensation—Committee representative of employers and workmen—Award—Application to review—Notice of objection to committee—Jurisdiction of county court—Separate "matter."*—*Workmen's Compensation Act, 1897 (60 & 61 Vict., c. 37), schedule II. (1).*—A workman had an award made in his favour for nominal compensation by a representative committee, and the award was duly recorded in the form of a memorandum in the county court. The workman gave notice that he wished the amount increased, and applied to the court for a review. The employers notified to the workman that the committee would deal with the case, but the workman objected to go before the committee again. The county court judge held that he had no jurisdiction to deal with the application, as the matter had already been dealt with by the committee. The Divisional Court having made absolute a rule for a *mandamus* directed to the county court judge to hear and determine the application, the employers appealed.

Held, that the answer to the question whether, when a representative committee of employers and workmen within the meaning of schedule II. of the Workmen's Compensation Act, 1897, had made an award, either party upon a change of circumstances occurring was precluded from requiring the review to be held by an arbitrator, must depend upon the balance of convenience as to which tribunal should deal with the application, as such an application was a separate and fresh matter which either tribunal could decide, and the words of the statute were so ambiguous or equivocal as to be equally consistent with either view.

Decision of Divisional Court (1912, 1 K. B. 351) not dissented from, and the appeal of the employers against the order making absolute the rule for *mandamus* discharged.—*R. v. TEMPLER, C.A.*, 501; 1912, 1 K. B. 351.

13. *Workmen's compensation—Contracting out—Scheme—Certificate by Registrar of Friendly Societies under Workmen's Compensation Act, 1897 (60 & 61 Vict., c. 37)—Recertifying scheme—Necessity for ballot—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), sub-section 3, 15.*—If a scheme under the Workmen's Compensation Act, 1897, is recertified by the Registrar of Friendly Societies under the Workmen's Compensation Act, 1906, the Registrar is only concerned to look at the scheme itself, and see whether it conforms, with or without modifications, with the provisions of the Act of 1906, but there is no necessity to ascertain by ballot that a majority of the workmen to whom such a scheme is applicable are in favour of the scheme on such recertification.—*GODWIN v. LORDS COMMISSIONERS OF THE ADMIRALTY, C.A.*, 307; 1912, 2 K. B. 26.

14. *Workmen's compensation—"Course of his employment"—Dependant—Right of alien's dependant resident in a foreign country to compensation—Workmen's Compensation (British Columbia) Act, 1902 (2 Ed. 7, c. 74).*—The provisions of the Workmen's Compensation (British Columbia) Act, 1902, are similar, so far as the rights of a dependant to claim compensation, to those contained in the English Act of 1897.

A workman was killed while at work in a mine at British Columbia. He was an Austrian subject, and his wife, who was also an Austrian, was resident in Austria at the time that her husband met with the accident.

Held, that the Act applied to the death of an alien workman leaving alien dependants resident abroad, and, therefore, that the widow was entitled to the award which had been made in her favour.—*MILLE KEZUS v. CROW'S NEST PASS COAL CO., P.C.*, 632.

15. *Workmen's compensation—Examination of workman by employers' medical practitioner—Claim by workman to have as of right his own doctor present—Workmen's Compensation Act, 1906, Schedule I. (4).*—A workman having claimed compensation under the Workmen's Compensation Act, 1906, was required by his employers to submit himself for medical examination. He expressed his willingness to be examined, but made it a condition that his own

medical man should be present throughout the examination. It was conceded that there were no special circumstances in his case which called for the presence of his own doctor. The question whether a workman in circumstances such as above mentioned had an absolute right to insist on his own medical man being present was stated in the form of a special case as a question-in-law by the sheriff substitute for the opinion of the Second Division of the Court of Session. That court held that there was no such absolute right given to a workman, and therefore a workman's refusal to be examined unless his own doctor was present was a "refusal" within the meaning of section 4 of the First Schedule of the Workmen's Compensation Act, 1906.

So held by the House of Lords, Lord Shaw dissenting.

Decision of Second Division of the Court of Session (reported 48 S. L. R. 296, 4 B. W. C. C. 363) affirmed.—*MORGAN v. WILLIAM DIXON (LIMITED), H.L.*, 88; 1912, A. C. 74.

16. *Workmen's compensation—Exclusion from Act—Member of crew remunerated by share of profits—Poundage—S. 7 (2) of Act of 1906.*—A member of a crew of a fishing boat was remunerated by a fixed salary, together with a poundage of 3d. in the pound on the net profits.

Held, that he was within the exception contained in section 7 (2) of the Workmen's Compensation Act, 1906, and was excluded from the Act.—*COSTELLO v. KELSALL, C.A.*, 720.

17. *Workmen's compensation—Frost-bite—Workmen's Compensation Act, 1906, s. 1.*—Warner, in the course of his employment with the respondent Couchman, a baker, while delivering bread on a round with a horse and cart was frost-bitten in the hand. The county court judge found that there was nothing in the man's employment which exposed him to more than the ordinary risk of cold to which any person working in the open on the day in question was exposed. The county court judge held that assuming the injury complained of was an accident, it was not an accident arising out of the employment, and on this ground made his award in favour of the employer.

Held, that the county court judge, in substance, having found that the applicant, by reason of his employment, was not specially exposed to the severity of the weather, that was a finding which entitled him to hold that the injury by accident for which compensation was sought did not arise out of the man's employment in the sense that it was a risk specially incidental thereto.

Decision of Court of Appeal (Fletcher Moulton L.J., dissenting) (55 SOLICITORS' JOURNAL, 107; 1911, 1 K. B. 351; 80 L. J. K. B. 526) affirmed.

The principle laid down by Fletcher Moulton, L.J., in his dissenting judgment as to the proper considerations to be applied when considering cases where the injury was attributable to the effects of natural causes, approved.—*WARNER v. COUCHMAN, H.L.*, 70; 1912, A. C. 35.

18. *Workmen's compensation—Incapacity for work—Injury to blind eye—Accident makes obvious an existing incapacity—Consequent failure to obtain work—Workmen's Compensation Act, 1906, s. 1, sub-section 1, Schedule I. (1) (b).*—A workman in the respondents' employment had, in fact, for some years been blind with one eye, but was fully capable of doing his work as an edge-tool moulder. While so at work the blind eye was injured, with the result that, fearing inflammation might affect the good eye, the bad eye was removed. On recovering from the effects of the operation, he was unable to obtain work at his old employment, on the ground that it was unsuitable work for a one-eyed man. He thereupon claimed compensation, but the county court judge held that any incapacity to obtain work as a one-eyed man was due to the accident which had blinded his eye years ago, and made an award in favour of the employers. The Court of Appeal (Fletcher Moulton dissenting) held that there was no incapacity for work which was the result of the recent accident within the meaning of the Act.

Held, that "incapacity for work" included the want of power to get work, and that although, after the second accident, the applicant was physically as well able to do his old work as before, the disfigurement caused by the accident incapacitated him for obtaining such work and therefore he was entitled to compensation.—*BALL v. HUNT & SONS, H.L.*, 550.

19. *Workmen's compensation—Miner—Accident resulting in loss of right eye—Incipient cataract in left eye not due to accident—Whether award should be suspensory in view of supervening incapacity—Award terminating compensation—Workmen's Compensation Act, 1906, Schedule I. 1 (b), 3, 16, 17.*—An accident to a miner resulted in the loss of his right eye. He recovered, and his employers applied to have ended the weekly payments which during his total incapacity they had made him under the Act. It was proved that the man could, as a miner, earn the same wages as before the accident, but that he was suffering from an incipient

cataract in his left eye, which, however, was not attributable to the accident, and it was said that in view of the chances of supervening incapacity the arbiter, although the immediate effects of the accident were spent, ought not to make an award finally ending the employers' liability.

Held, that because the accident made the cataract more serious, that fact was not a ground for keeping the arbitration alive on the chance of supervening incapacity.—*HARGREAVE v. HAUGHHEAD COAL CO., H.L.*, 379; 1912, A. C., 319.

20. *Workmen's Compensation—Redemption—Permanent injury—Total incapacity—Workmen's Compensation Act, 1906, Schedule I. (17).*—On an application under clause 17 of schedule 1 of the Workmen's Compensation Act, 1906, by the employer, who alone has under the Act the right to make such an application, to redeem by payment of a lump sum a weekly payment that has been continued for not less than six months, the first duty of the arbitrator is, after hearing evidence, to arrive at the conclusion whether the incapacity to work, as distinct from the physical injury resulting from the accident, is or is not permanent. If the incapacity is permanent, the award must be for a lump sum, which will purchase an annuity for the workman equal to 75 per cent. of the annual value of the weekly payment, and it makes no difference whether such permanent incapacity is total or partial.—*CALICO PRINTERS' ASSOCIATION v. HIGHAM, C.A.*, 89; 1912, 1 K. B. 93.

21. *Workmen's compensation—Sunstroke—Accident arising out of employment—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 18), s. 1.*—A workman who, by reason of his employment, is exposed to abnormal risks of weather is entitled to compensation in respect of an injury incurred by sunstroke.—*DAVIES v. GILLESPIE, C.A.*, 11.

22. *Workmen's compensation—Total incapacity—Inability to obtain employment—Relevancy—Workmen's Compensation Act, 1906, s. 1 (1), Schedule I, para 1 (b), 16.*—The term "incapacity for work" in the Workmen's Compensation Act, 1906, Schedule I. (1), includes, in the case of a workman partially incapacitated, inability to obtain employment in the district where he lives, and is relevant on an application for reviewing weekly payments.—*MACDONALD v. WILSON'S CO., H.L.*, 550.

23. *Workmen's compensation—Weekly payment may be reviewed—Agreement of weekly payment—Award finally terminating agreement—Power of arbitrator to terminate agreement: and weekly payment—Workmen's Compensation Act, 1906, Schedule I, 16.*—An appeal by a workman raised the question whether, when in exercise of the jurisdiction conferred by Rule 16 of Schedule I attached to the Workmen's Compensation Act, 1906, the county court judge, as arbitrator, orders that the weekly sums payable to a workman, whether under an award or registered agreement, by way of compensation for incapacity caused by accidental injury, should be "ended," he is bound to make this order merely suspensory, no matter how convinced he may be that the incapacity will never recur, or how overwhelming may be the evidence leading him to that conclusion.

Held, that as a judge had power to make an order that payments should finally stop, he, by such an order, in effect terminated the agreement.

Therefore, although strictly the judgment was technically wrong in form, there was nothing which took it outside the decision in *Nicholson v. Piper* (51 SOLICITORS' JOURNAL, 569; 1907, A. C. 215), and the appeal failed.

Decision of Court of Appeal (4 B. W. C. C. 11) affirmed.—*TAYLOR v. LONDON AND NORTH WESTERN RAILWAY CO., H.L.*, 323; 1912, A. C. 242.

MINES :—

1. *Railways—Freestone—Notice of intention to work minerals—Counter notice to leave unworked—Compensation—Railways Clauses Consolidation (Scotland) Act, 1845, sections 70, 71.*—The appellant claimed that he was entitled under a lease to quarry freestone rock or sandstone, as being a "mineral." The respondent railway company gave a counter notice, and claimed that in the *locus in quo* freestone rock was the substratum of the soil, and was the common rock of the district in which the appellant's quarry was situated. The appellant, in reply, averred that this freestone was a red sandstone of exceptional character, adapted for the finest kinds of building work and of great commercial value.

Held, that the question whether sandstone was in a particular locality a mineral or not was a question of fact to be ascertained according to rules laid down by the court.

North British Railway v. Budhill Coal and Sandstone Co. (1910, A. C. 16) not followed.

Great Western Railway v. Carpalla United China Clay Co. (1910, A. C. 83) followed.—*SYMINGTON v. CALEDONIAN RAILWAY, H.L.*, 87; 1912, A. C. 87.

2. *Trustee—Power to grant mining leases—Open and unopened mines—Settled Land Act, 1882 (45 & 46 Vict., c. 38), s. 11—Power as trustee of settled land—Contrary intention.*—The residue of an estate comprising timber and minerals was devised to trustees with power to let land in such manner as they thought fit. There were no open mines.

Held, that such a power did not authorize the letting of unopened mines.

But held also that the lease of the mines must be taken to operate under the Settled Land Act, and that as the will did not express a contrary intention, which would take the property out of the operation of section 11 of the Settled Land Act, 1882, the tenant for life was only entitled to one-fourth of the rent, and the remaining three-fourths must be set aside as capital moneys arising under the Acts in accordance with the terms of such section.—*RE DANIELS, Neville, J.*, 519.

See also Inclosure Act.

MISTAKE :—

Money paid under a mistake of fact—Liability to refund—Effect of banker placing money to credit of customer's account, the banker failing before it is drawn upon.—By a standing arrangement between the plaintiff, who resided in England, and K. & Co., a firm of bankers in New York, made in 1902, the latter agreed to honour the drafts of a Mexican company, of which the plaintiff was the managing director in London, up to £500, and the plaintiff agreed to recoup K. & Co. by paying into their account with the defendants the amount which they so paid against the standing credit. In October, 1907, such an overdraft was required by the Mexican company, and K. & Co. placed £500 to their credit, giving notice to the plaintiff, who thereupon, on receiving the notice, paid £500 to the defendants. Between these two dates and before any cheques drawn by the Mexican company were honoured against the advance, K. & Co. committed an act of bankruptcy. Thereupon the plaintiff claimed the return in full of the £500 he had paid the defendants.

Held, allowing the appeal, that the £500 must be returned to the plaintiff.

Decision of Court of Appeal (26 T. L. R. 404, 15 Com. Cas. 241) reversed, and judgment of Hamilton, J. (reported 15 Com. Cas. 1) restored.—*KERRISON v. GLYN, MILLS, CURRIE & CO., H.L.*, 139.

See also Tithe Rent Charge.

MONEY PAID UNDER COMPULSION :—

Foreign jurisdiction—Payment under protest—Withdrawal of proceedings—Action for recovery of money.—The plaintiffs took possession of a ship lying in Pisagua Harbour by virtue of a mortgage which they had on the ship. The defendants, to whom the owners of the ship were indebted, procured the arrest of the ship by means of an order of the Chilean court. In order to release the ship, the plaintiffs paid off the debt owing to the defendants by the shipowners, under protest, and informed the defendants that they reserved to themselves the right to open up the whole question in London. In an action to recover the money so paid,

Held, that the money was paid under compulsion of law, and therefore was not recoverable.—*CLYDESDALE BANK v. SCHRODER, K.B.D.*, 519.

MONEY-LENDER :—

1. *Carrying on business in other than registered name—Money Lenders Act, 1900 (63 & 64 Vict., c. 51), s. 2 (1) (b).*—A money-lender was registered as the "Wentworth Loan and Discount Office." In an action in which she sued on promissory notes for money lent it appeared that she had been described on the promissory notes as the "Wentworth Loan and Discount Company." The defendants contended that the plaintiff could not recover on the ground that the plaintiff had carried on her business in another than her registered name, contrary to section 2 (1) (b) of the Money Lenders Act, 1900. The county court judge gave judgment for the plaintiff, holding that the defendants had not been deceived by her variation of name.

Held, that the county court judge was justified in his decision on two grounds: (1) that the variation was such a small one as not to amount to a difference compelling him to find that the plaintiff was carrying on business in any other than her registered name; and (2) that the evidence being limited to one particular transaction he was not bound to find that the plaintiff was so carrying on her business.—*WENTWORTH LOAN CO. v. LEFTKOWITCH, K.B.D.*, 54.

2. *Unregistered money-lender—Onus—Volume of business to be considered—Money Lenders Act, 1900 (63 & 64 Vict., c. 51) s. 6.*—Where in an action for money lent the defendant raises the defence that the plaintiff is an unregistered money-lender, the onus of proof that the plaintiff is a money-lender within the meaning of section 6 of the Money Lenders Act, 1900, lies in the first instance

on the defendant. In considering whether the defendant has discharged that onus the tribunal must take into consideration the total volume of business of money-lending carried on by the plaintiff, including the exceptions mentioned in section 6.

A person carried on business as a jeweller and lent money to customers who came into contact with him in connection with his jewellery business.

Held, that such loans were not made in the course of and for the purposes of a business not having for its primary object the lending of money within the meaning of section 6 (d) of the Money Lenders Act, 1900.—*FAGOT v. FINE, K.B.D.*, 35.

MORTGAGE:—

1. *Bank—Mortgage to secure current account—Subsequent mortgage—Appropriation of payments—Rule in Clayton's case.*—Held, reversing the decision of the Court of Appeal (Cozens-Hardy, M.R., *dissentiente*) (1910, 1 Ch. 648), that, on the facts, the rule in *Clayton's case* (1 Mer. 605) that payments carried by a creditor to a current account which is communicated to the debtor are to be appropriated to liabilities in order of date applied.—*DEELEY v. LLOYDS BANK, H.L.*, 734.

2. *Clog on equity—Exclusive licence—Monopoly—Grant of proprietary rights in consideration of advances secured on debentures—Repayment of all money advanced—Claim that grant of licence had become inoperative as amounting to clog on equity of redemption.*—The British South Africa Company agreed with the De Beers Consolidated Mines (Limited) that the latter should advance them £112,000 by instalments. There was a clause that if the De Beers desired to have the benefit of a scheduled clause as to the grant of an exclusive licence to work the Chartered Company's diamondiferous ground in Rhodesia, it might decline payment of the £112,000 for five years. In December, 1892, the De Beers Company agreed to accept debentures in satisfaction of the £112,000, and to advance £100,000 further, in consideration of which the Chartered Company granted the De Beers Company an exclusive licence to work diamondiferous grounds in its territories. All advances were paid off in 1896, and the Chartered Company thereupon claimed that the licence ceased to be operative, as being a clog on the equity of redemption.

Held, that the grant of the exclusive licence was no part of the mortgage security, and the doctrine of clogging the equity having no application to the transaction, the licence remained valid, although the whole of the money advanced had been repaid.

Decision of Court of Appeal (which affirmed a judgment of Swinfen Eady, J.) (54 SOLICITORS' JOURNAL, 679; 1910, 2 Ch. 502) reversed.—*DE BEERS CONSOLIDATED MINES v. BRITISH SOUTH AFRICA CO., H.L.*, 175; 1912, A. C. 52.

3. *Covenant to assign spes successionis to indemnity—Right of set off by the person giving the indemnity against the covenantor after realization of the spes successionis—Right of covenantee.*—If C gives an indemnity to A, and B covenants to assign his spes successionis to the benefit of that indemnity to D, when the spes successionis is realized, B immediately becomes a trustee for D, and C cannot claim to set off a debt due to him from B before satisfying the demands of D.—*RE POULTER, Neville, J.*, 291.

4. *Foreclosure action—Plaintiff trustees—Change of trustees after foreclosure absolute—Petition by defendant to open foreclosure—Revivor—Adding parties—Application to set aside proceedings for irregularity—R.S.C. XVII. 1 and 4; LXIV. 13; LXX. 3.*—The proper procedure in the opening of foreclosure and carrying on of proceedings with added parties is by application to the court under Ord. 17, r. 4.

Held, that an order made by the Registrar for revivor on petition of course must be discharged as irregular under the present practice of the court.—*PENNINGTON v. CAYLEY, Swinfen Eady, J.*, 550; 1912, 2 Ch. 236.

5. *Lease by mortgagor in possession—Special extension of statutory power—Special proviso for delivery of counterpart to mortgagee—Lease under extended power—Non-delivery of counterpart—Validity of lease—Conveyancing Act, 1881 (44 & 45 Vict., c. 41), s. 18, sub-sections 11 and 14.*—The proviso in sub-section 11 of section 18 of the Conveyancing Act, 1881, that the lessee shall not be concerned to see that the mortgagor does within one month after making the lease deliver to the mortgagee a counterpart executed by the lessee applies to a lease granted under the extended powers conferred by virtue of sub-section 14 of the same section, as well as to a lease granted under the statutory power.—*PUBLIC TRUSTEE v. LAWRENCE, Swinfen Eady, J.*, 504; 1912, 1 Ch. 789.

6. *Mortgage by sub-demise—Concurrent leases—Validity of second lease—Legal term—Surrender—Satisfied Terms Act, 1845 (8 & 9 Vict., c. 112), s. 2—Not applicable to sub-demises of leaseholds.*—A second mortgage by demise of leasehold premises for a

term concurrent with that granted under a prior mortgage is not a mere equitable charge, but passes a legal term, which is an incubance for the discharge of which a formal surrender under seal is necessary.

The term passed by a second mortgage by demise does not become a satisfied term under section 2 of the Satisfied Terms Act, 1845, when the money due under the mortgage is paid off without formal surrender.—*RE MOORE AND HULME, Joyce, J.*, 89; 1912, 2 Ch. 105.

7. *Receiver—Equitable execution—Rent of house and furniture—Apportionment—Lump sum payable to debtor's mortgagee—Creditor entitled to have rent of furniture apportioned.*—A mortgagor and mortgagee of houses joined in making a lease of the houses and of furniture in them which belonged to the mortgagor at an inclusive rent payable to the mortgagor until the mortgagee should give notice to the contrary. The mortgagee entered into receipt of the rents, and a judgment creditor of the mortgagor obtained the appointment of a receiver of the interest of the mortgagor in the rent reserved by the lease. The mortgagor was under covenant not to remove the furniture from the houses without the mortgagee's consent.

Held, that the creditor was entitled to have the rent apportioned as between the houses and the furniture, so that the receiver could recover the amount apportioned to the furniture, and that it must be referred to a Master to make the apportionment.—*HOARE AND COMPANY v. HOVE BUNGALOWS, C.A.*, 686.

8. *Re-conveyance—Inability to give legal estate, owing to absence of mortgagee—Liability for costs of order to vest legal estate in new trustee—Tender of principal and interest by mortgagor—Failure to re-convey legal estate—Liability for interest after date of tender.*—A mortgagor received notice to pay off the mortgage. The disappearance of one of two joint mortgagees had made it impossible for the remaining mortgagee to get in the legal estate without a vesting order. The mortgagor's solicitor made a tender of principal and interest to the managing clerk of the mortgagee's solicitor, who, in his employer's absence, had no instructions to receive it, the tender being accompanied by a demand for the immediate re-conveyance of the legal estate.

Held, that in the absence of any misconduct by the remaining mortgagee, the costs of obtaining the vesting order were properly chargeable to the mortgagor; and that a tender made under those conditions was not a valid tender for the purpose of relieving the mortgagor from payment of interest after date of tender.—*WEBBE v. CROSSE, Parker, J.*, 177; 1912, 1 Ch. 323.

9. *Rent charges on mortgaged property—Property insufficient to satisfy mortgages and rent charges—Rent charges not charged with deficiency—Mortgages payable out of residue—Marshalling—Real Estate Charges Act 1854 (17 & 18 Vict., c. 113).*—A testator by his will devised certain real estate, which was subject to a mortgage, to trustees upon trust to give notice to the mortgagees, and sell the same, reserving thereout certain rent-charges, to be paid to two of the testator's children, named in the will, for life. The testator directed the sale of other real estate for the payment of debts and expenses, and left the residue of his property to his children equally. The mortgaged property proved insufficient to satisfy the mortgage debt and provide for the rent-charges.

Held, that the rent-charges should not be charged with the deficiency, but that the mortgage debt should be paid out of the testator's residuary estate.

Buckley v. Buckley (19 L.R. Ir. 544) followed.—*RE FRY, Joyce, J.*, 518; 1912, 2 Ch. 86.

See also *Administration, Company, Trustee, Vendor and Purchaser*

NATIONAL INSURANCE:—

Employment of Nonconformist minister—Contract of service—Contract for services—National Insurance Act, 1911 (1 & 2 Geo. 5, c. 55), s. 1 (1), (2), Schedule I, Part 1 (a).—Nonconformist ministers appointed by the Conference of their Church, which has the power of appointment of ministers and of suspension and dismissal in cases of immorality, heresy or general unsuitability, and paid by the circuit or church to which they are attached, are not employed under a "contract of service" within Part I. of the First Schedule of the National Insurance Act, 1911.—*RE EMPLOYMENT OF METHODIST MINISTERS, Joyce, J.*, 687.

NEGLIGENCE:—

1. *Cattle on highway—Strayed through open gate from field—No evidence as to how the gate got open—Prima facie evidence of negligence—Burden of proof.*—Cattle strayed from a field where the defendant, the owner, had put them out to pasture on to the adjoining highway. There was evidence that about 6.30 in the evening the gate was fastened. About 10.30 the cattle were on the highway, and caused personal injury to the plaintiff.

Held, that it was on the plaintiff to prove negligence on the part of the owner of the cattle, as no *prima facie* evidence of negligence on his part was to be assumed merely from the fact that the cattle had strayed. As the plaintiff failed to establish this, the defendant was entitled to judgment.

Decision of Divisional Court, where the defendant's appeal was dismissed, Phillimore, J., holding there was no evidence of negligence on the part of the defendant, while Horridge, J., held that there was (reported 55 SOLICITORS' JOURNAL, 509) reversed.

Per Vaughan Williams, L.J.: The owner of cattle does not warrant that they will not stray, and is only liable to take ordinary care, unless the animal's are of a class likely to do injury to persons lawfully using the highway.—*ELLIS v. BANYARD, C.A.*, 139.

2. *Highway—Stray quiet domestic animal—Escape from field—adjoining highway owing to defective hedges—Damage to passers-by—Duty of owner.*—*Per* Bankes, J.: At common law there is no duty on the owner or occupier of a field adjoining a highway as regards passers-by on the highway, to keep his quiet domestic animals, not known by him to be vicious, off the highway, or to fence his land so as to prevent them from escaping. Accordingly, where one escapes owing to defective hedges, and does injury to passers-by, they have no action against the owner of the animal.—*JONES v. LEE, K.B.D.*, 125.

3. *Tort—Scope of servant's authority.*—H, the defendant's servant, was driving a "float" on a milk round, when the boy in the float, who delivered the milk, fell out of the float and was injured. The plaintiff, standing at the door of her house, saw the accident, and went to the boy's assistance. She said to H, "Shall I help you to take him home?" H answered, "You can if you will; get in." The plaintiff got in, and whilst she was assisting the boy the horse started, and the plaintiff also fell out of the float and was injured. At the time the horse started H was standing sideways in the float looking at the plaintiff, with the reins in his hands.

Held, that, notwithstanding the emergency, H had no implied authority to invite the plaintiff into the float, and that therefore the defendant owed no duty to the plaintiff, a breach of which gave her a right of action.—*HOUGHTON v. PILKINGTON, K.B.D.*, 633.

4. *Tramway driver—Failure to stop tram when insufficient room to pass another vehicle—Whether judge was justified in holding that there was no evidence to go to the jury.*—It is the duty of the driver of a tramcar to ascertain for himself that there is room before attempting to pass another vehicle, and not to rely on the statement by someone else that there is room. The plaintiff brought an action under Lord Campbell's Act in respect of the death of her husband, alleged to have been caused by the negligence of the defendant's servant, who was the driver of the tramcar. The judge held on further consideration that there was no evidence of negligence on which the verdict of the jury could be supported, and entered judgment for the defendants.

Held, that there was sufficient evidence of negligence to go to the jury, and therefore their verdict must be upheld.

Decision of Court of Appeal (75 J. P. 25) reversed.—*LEAVER v. PONTYPRIDD D.C., H.L.*, 32.

See also *Coal Mines*.

NUISANCE:—

1. *Landlord's liability—Letting or licence—Rabbit coursing—Inevitable nuisance—Evidence—Judicial notice—Pleading.*—An owner let his field for the holding of rabbit coursing matches on Sundays and Wednesdays. The holding of the meetings was a nuisance to the adjoining owner.

Held, that the agreement for the use of the field amounted to a letting and not a mere licence, that the landlord was only liable for the nuisance if it was the inevitable result of the purpose for which the land was let.

Held further, that the fact that the rabbit coursing was an inevitable nuisance was a fact which ought to have been pleaded, that the court could not take judicial notice of such a fact, but that it must be proved by evidence.—*AYERS v. HANSON, Warrington, J.*, 735.

2. *Noise—Exhibition—Side shows—Gravity railway—"Cake walk"—Merry-go-round—Interference with comfortable occupation of plaintiff's premises.*—Where the noise from side shows at an exhibition interfered with the comfortable occupation of the plaintiff's house and injuriously affected the health of his family,

Held, that the noise amounted to a nuisance, and that the plaintiff was entitled to an injunction and damages.—*BECKER v. EARLS COURT, LIMITED, Eve, J.*, 73.

PARTNERSHIP:—

1. *Business premises the property of one partner—No special provision as to tenancy—Partnership to pay all rent—Tenancy implied—Tenancy during the continuance of partnership.*—Where business premises the property of one partner are occupied by the partnership and all the rent is paid out of the partnership account, but there is no provision as to the duration of the tenancy, the right inference is that the tenancy is a tenancy during the continuance of the partnership.—*POCOCK v. CARTER, Neville, J.*, 362; 1912, 1 Ch. 663.

2. *Dissolution—Receiver—Solicitors—Bills of costs.*—In an action for dissolution of partnership between solicitors a receiver was appointed to get in outstanding costs due from clients, and the books of the firm were placed in his hands. The entries of attendances made by R, one of the partners, were not sufficiently detailed to enable the receiver to make out proper bills. R refused to settle the bills unless remunerated by 5 per cent. on the amount thereof. The other partner thereupon took out a summons for an order that R should be directed to settle the bills within one week.

Held, affirming the decision of Joyce, J., that the summons must be refused.—*RAY v. FLOWER ELLIS, C.A.*, 724.

PASSING OFF:—

1. *Colourable imitation—Evidence requisite in absence of direct proof—Fraudulent intention—Copying "get-up."—Observations on the nature of the evidence required in passing-off cases.* Rival traders may copy each other's get up, provided they take care to distinguish their goods so that a purchaser is not likely to be misled as to whose goods he is getting. The defendants sold pens like the plaintiffs', in boxes which were identical and bore the same numbers, but differed in lettering.

Held, that the action failed in the absence of proof that purchasers would ask for the pens by any reference to number or description of box, or other proof beyond mere inspection, that the boxes were calculated to deceive.—*PERRY & Co. v. HESSIN & Co., C.A.*, 572.

2. *Substitution of goods—Accidental and inadvertent substitution—"Trap" orders—Delay in delivery of particulars of occasions relied on—Injunction refused—Costs.*—In 1906 M.E.P., a trading corporation, discontinued stocking and selling L's goods, and in their place offered goods of their own manufacture, the shop assistants being instructed at the time to explain to customers that only M.E.P.'s goods were sold, and to push their sale. In July, 1910, L sent a number of their employees to M.E.P. shops with orders for L's goods. L alleged that in several instances M.E.P. goods were supplied without any explanation being offered, or the notice of the customers being drawn to the substitution. In August, 1910, L instituted an action for an injunction to restrain the passing off of M.E.P. goods for L's goods; but particulars of the instances alleged were not delivered to the defendants until December, 1910.

Held, that in so far as there had been any substitution of M.E.P.'s goods for L's goods, it was inadvertent, and not part of a deliberate policy of fraud, and that, on the defendants undertaking that their goods should not be supplied in response to orders for the plaintiffs' goods without the consent of the purchaser thereto being first obtained, no injunction should be granted; and that, as the plaintiffs had been guilty of negligence in delivering particulars of the alleged "trap" orders, there should be no order as to costs.

Dictum of Farwell, L.J., in *Ripley v. Griffiths* (19 Pat. Rep. 590) followed.—*LEVER BROS. v. MASEBO' EQUITABLE PIONEERS' SOCIETY, Joyce, J.*, 161.

3. *Trade name—Issue of circulars—Innocent user—Disclaimer before action brought—Withdrawal of circulars—Injunction.*—The defendants issued and distributed price lists in which they innocently misrepresented their goods as being those of the plaintiffs. Before action brought they disclaimed any intention to pass off their goods as the plaintiffs', and undertook not to issue any more of the price-lists complained of.

Held, that the disclaimer was not a sufficient defence without some active steps being taken to withdraw the price-lists, and that the plaintiffs were therefore entitled to an injunction.—*YEATMAN v. HOMBERGER, Eve, J.*, 614.

PATENT:—

1. *Infringement of design—Manufacture of moulds for casting registered articles—Moulds to be shipped to India—Patents and Designs Act, 1907 (7 Ed. 7, c. 29) s. 60.*—A manufacturer made some moulds for the purpose of casting metal articles, of which the design was patented by another person. The moulds were not intended to be used in any place to which the Patents and Designs Act, 1907, applies

Held, that the manufacture of the moulds was a breach of section 60 (1) (a) of the statute which provides that . . . "it shall not be lawful for any person . . . to do anything with a view to enable the design to be" applied "to any article in any class of goods in which the design is registered."—*HADDON v. BANNERMAN*, Warrington, J., 750.

2. *Registered proprietor—Right to sue for infringements—Patents and Designs Act, 1907 (7 Ed. 7, ch. 29), section 71, sub-section 3.*—Certain rights having been conferred by statute on a registered proprietor by sub-section 3 of section 71 of the Patents and Designs Act, 1907, the court will from such fact draw the inference that there is in such registered proprietor a right to sue.—*DUNCAN v. LOCKERBIE & WILKINSON, (LIMITED)*, Neville, J., 573.

3. *Revocation—Patents and Designs Act, 1907 (7 Ed. 7, c. 29), ss. 24 and 27—Manufacture outside the United Kingdom—"Sufficient reasons"—Threat of infringement action—Voluntary or compulsory licence.*—The Comptroller should not grant a petition for revocation of a patent merely on the ground of non-application by the patentee for a voluntary or compulsory licence if the patentee can shew "sufficient reasons" why the article is not manufactured in the United Kingdom.—*RE TAYLOR'S PATENT*, Parker, J., 415; 1912, 1 Ch. 635.

4. *Vesting order—Chose in action—Patents and Designs Act, 1907, s. 72—Trustee Act, 1893, s. 35.*—Patent rights being choses in action, the court has jurisdiction under section 35 of the Trustee Act, 1893, to make an order vesting them in such person as the court may appoint.—*RE HEATH'S PATENT*, Swinfen Eady, J., 538.

POOR LAW:—

1. *Officer—District medical officer—Public vaccinator—Poor-law Officers Superannuation Act, 1896 (59 & 60 Vict., c. 50), sub-sections 2, 3, 4, and 19—"Officer or servant"—"Salary or wages and emoluments"—Vaccination Acts, 1840 (3 & 4 Vict., c. 29) s. 1; 1853 (16 & 17 Vict., c. 100), s. 6; 1867 (30 & 31 Vict., c. 84), sub-sections 4, 6, 7.*—The district medical officer who has been appointed public vaccinator for the same district is not entitled under the Vaccination Acts in respect of his fees for vaccination, performed by him, to any superannuation allowances, since in his capacity as vaccinator he is not an officer of the guardians, and accordingly is not in that capacity within the scope of the Poor Law Officers Superannuation Act.—*LAWSON v. MARLBOROUGH UNION*, Neville, J. 503.

2. *Pauper lunatic—Settlement admitted without formal inquiry—General expenses of maintenance paid to union where pauper was originally placed—Subsequent claim by that union for extra expenses—Order of justices—Lunacy Act, 1890, ss. 286 to 289.*—A pauper lunatic was sent to the West Bromwich Union pending the adjudication of her settlement. After three years, an agreement was come to between the Ormskirk Guardians and the West Bromwich Guardians by which the former became responsible for the lunatic's maintenance on the ground that the lunatic was settled in Ormskirk. The Ormskirk Union paid the whole of the general expenses then claimed. Later the West Bromwich Union said that they had in respect of the same lunatic incurred special expenses by reason of the woman's state of health, and they demanded a further payment of about £33. The justices made an order that the Ormskirk Union should pay this balance to the West Bromwich Union.

Held, that although there had been no adjudication of settlement "in accordance with the provisions of this Act," nevertheless at the date of the order the Ormskirk Guardians came within the words of section 287, "the union to which the lunatic is chargeable," and therefore the order of justices made under section 286 was properly made.

The rule *nisi* for a *certiorari* to quash the order of the justices was accordingly discharged.—*REX v. HATHERTON, C.A.*, 324, 1912; 1 K. B. 616.

3. *Settlement—Removal—Residence of legitimate child under sixteen with deserted mother—Acquisition of settlement by residence—Poor Law Removal Act, 1846 (9 & 10 Vict., c. 66), ss. 1, 3—Poor Removal Act, 1848 (11 & 12 Vict., c. iii.), s. 1—Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict., c. 61), ss. 34, 35.*—Held, that a legitimate child who had lived while under the age of sixteen for a term of three years without interruption or relief with her deserted mother in the parish of N., in which the mother had acquired a status of irremovability, had herself by such residence acquired a settlement of her own in that parish.

Decision of Court of Appeal (55 SOLICITORS' JOURNAL, 289; 1911, 1 K. B. 748) affirmed.—*HACKNEY UNION v. KINGSTON-UPON-HULL, H.L.*, 535.

PORTIONS:—

Whether son who attained twenty-one and predeceased parents entitled to share—Presumption that shares vested at twenty-one—Construction.—A clause in a will provided for the date at which the interest should vest in the case of sons, namely twenty-one. It then provided for the date of the vesting in the case of daughters, namely twenty-one or marriage. These two provisions were in a continuous sentence, and at the end of the words dealing with the case of daughters came the following passage, "if the same respectively shall happen after the death of H. L. P. (the father), but if the same should happen in his lifetime, then immediately after his death." The respondent, as mortgagee of H. E. L. P.'s one-third share of a portion of £6,000, claimed to have a sum of £2,000 raised, notwithstanding that H. E. L. P. had died in the lifetime of his father, H. L. P.

Held, that according to the canon of construction it had been the practice to construe a deed providing portions as vesting the portions at twenty-one, or, in the case of daughters, marriage, unless the deed throughout all its provisions clearly treated the vesting as contingent on the portioner surviving the parent, and therefore the one-third share of the portions sum became vested in H. E. L. P. on his attaining the age of twenty-one, and was not contingent on his surviving his father, H. L. P.—*WALLER v. STEVENSON, H.L.*, 666.

PRACTICE:—

1. *Attachment—Motion to commit—No service of copy of affidavit—R. S. C. LII. 4.*—It is not intended by the Rules of the Supreme Court to treat attachment and committal as identical remedies, and ord. 52, r. 4, does not apply to motions to commit. Consequently, a preliminary objection to a motion to commit that no copy of the affidavit intended to be used has been served with the notice of motion is not well founded.

Litchfield v. Jones (25 Ch. D. 64, 32 W. R. 288) explained.—*TAYLOR, PLINSTON & CO. v. PLINSTON, C.A.*, 33; 1911, 2 Ch. 605.

2. *County Court action—Certiorari—Removal for trial to High Court—Summons for direction on defendants' application—Rules of the Supreme Court, XXX., 1, 8.*—A new trial was ordered in an action disposed of in the county court on the ground that the verdict was against the weight of evidence. Upon the action, which had previously been tried before a common jury, and conducted by junior counsel on both sides, the plaintiff applied for an adjournment on the ground that a common jury was not suitable to decide the case, and also in order to enable him to brief a leader, the defendants having instructed a King's Counsel to appear for them.

The judge offered to adjourn the case only if the plaintiff would give an undertaking to consent to the case being removed into the High Court by writ of *certiorari*. To this the plaintiff agreed. The defendants thereupon applied *ex parte* for, and obtained a writ, to which they appeared. The plaintiff, however, declined to take any step in the High Court proceedings, and the defendants took out a summons for directions under order 30, and *inter alia* asked either that the plaintiff should be required to proceed with the action to trial or that it should be struck out for want of prosecution.

Master Chitty, following *Garron v. Great Western Railway Co.* (1858, 1 E. & E., 258, 28 L. J., Q. B. 103), held that there was no obligation upon the plaintiff to proceed with the action in the King's Bench Division, and refused to make an order on the defendants' summons.

Bucknill, J., affirmed the Master.

Held, that the decision of the Master and of the Judge was right.—*HARRISON v. BULL, C.A.*, 292; 1912, 1 K. B. 612.

3. *Discovery—Affidavit of documents—Further affidavit—R. S. C. XXX. rr. 12, 19a.*—Principles upon which the court acts in making an order for a further and better affidavit of documents considered and decision of Court of Appeal (1912, 1 K. B., 369; 81 L. J. K. B. 270) affirmed.—*BRITISH ASSOCIATION OF GLASS BOTTLE MANUFACTURERS v. NETTLEFOLD, H.L.*, 702.

4. *Discovery—Privilege from inspection—Documents evidencing defendants' title—Privilege of title—Attorney-General.*—The defendants to an injunction on behalf of the Crown claiming part of the foreshore alleged a title derived by various mesne conveyances from a grantee from the Crown. In their affidavit of documents the defendants claimed privilege for these conveyances as solely relating to their own title.

Held, that as the Crown was *prima facie* entitled to the foreshore, the Attorney-General could insist on the production in order to see that the alleged grant was vested in the defendants.

Semble, the same rule holds good as between two subjects where one claims by privilege of title from the other.—*ATTORNEY-GENERAL v. STOREY, C.A.*, 735.

5. *Discovery—Witness—Obligation to produce documents—Documents in custody of witness, but not his property—Foreign Tribunals Evidence Act, 1856* (19 & 20 Vict., c. 42), s. 5.—In an action pending in America, an order was obtained, under the Foreign Tribunals Evidence Act, 1856, that a witness should produce certain documents and answer certain questions before a commissioner in England. The witness was head of the department of a firm, and while he admitted he had physical possession of the documents, he declined to produce them on the ground that they were not his property, or to answer the questions, on the ground that they were irrelevant.

Held, that a servant who had merely the possession of documents belonging to his firm could not be ordered to produce the documents without the express authority of the firm whose property the documents were.

Decision of Divisional Court (28 T. L. R., 36) reversed.—*ECCLES v. LOUISVILLE AND NASHVILLE RAILROAD CO., C.A.*, 107; 1912, 1 K. B. 135.

6. *Drawing up orders—Delay—Rules of the Supreme Court, Order 62, r. 14 (A).*—Under the new rule 14 (A) of order 62 of the Rules of the Supreme Court, it is the duty of the registrar, if the order has not been drawn up at the end of a period of fourteen days from the date of the judgment, to report to the judge so soon as the fourteen days have elapsed since the order was made that the order has not yet been drawn up and entered.—*RE EMPIRE GUARANTEE AND INSURANCE CO., S. Eady, J.*, 444.

7. *Evidence—Bundle of copy correspondence—Taken as put in—Agreement by parties—Indorsement on bundle—R. S. C. LXII. 14 B.*—Where at the trial parties agree that a bundle of copy correspondence shall be taken as put in saving all just exceptions, it is desirable that the agreement should be indorsed on the bundle and signed by the parties or their solicitors. The registrar ought not to be called upon to say whether the whole of the bundle is put in.—*PERRY & CO. v. HESSIN & CO., Eve, J.*, 345.

8. *Notice of motion—Service before appearance—Address for service—Rules of the Supreme Court, 1883, Order LVII., r. 2.*—Leave having been obtained to serve a notice of motion on a defendant before appearance, a copy of the notice of motion was left at her address.

Held, sufficient notice of motion.—*JARVIS v. HEMMINGES, Warrington, J.*, 271; 1912, 1 Ch. 462.

9. *Particulars—Highway—Extraordinary traffic—Estimated damages—Expenditure on neighbouring roads—Highways and Locomotives Amendment Act, 1878, s. 23.*—Where a highway authority claim damages for extraordinary traffic, and in their statement of claim allege that the claim was estimated by deducting from the sum they had expended in repair the average sum expended during a similar period in repairing similar roads in the neighbourhood, the contractor who was made a defendant was entitled to have particulars of the names of the highways in the neighbourhood and the items of expenditure thereon.

Billerica Rural District Council v. Poplar Union (55 SOLICITORS' JOURNAL, 647; 1912, 2 K. B. 801) followed.—*CHESTER BOROUGH COUNCIL v. GEPP, C.A.*, 160; 1912, 1 K. B. 477.

10. *Service of writ—Foreign corporation—Carrying on business within the jurisdiction—R. R. C. IX., r. 8.*—The defendants were a statutory Canadian company, whose undertaking was the construction and working of a railway in Canada. There was a London Board, by whom the financial business of issuing debentures and advertising was carried on, at certain premises in the city. In an action by the plaintiffs, who were shipowners, the writ was served on the defendants at the London office.

Held, that although the defendants did not pay rent for the premises, nor did they, as the line was not yet opened for general traffic, carry on the business of running the railway here any more than in Canada, yet that the business of issuing debentures was the business of the company so as to bring the company within the jurisdiction of the courts.—*ACTIESELSKABET DAMPSKIB "HERCULES" v. GRAND TRUNK PACIFIC RAILWAY, C.A.*, 51; 1912, 1 K. B. 222.

11. *Staying proceedings—Loan to building society—Charge on property of society—Action for receiver—Secured creditor—Cause of action.*—The plaintiff advanced money to a building society for the repayment of which the funds and property of the society were made liable, and brought an action for a receiver and declaration of charge. The society alleged that the plaintiff had no cause of action as a secured creditor, and moved to stay proceedings.

Held, that the funds of the society being appropriated for the repayment of the loan, there was a good equitable assignment, and therefore a good cause of action.—*BAKER v. LANDPORT AND MID-SOMERSET BUILDING SOCIETY, Eve, J.*, 224.

See also Arbitration, Mortgage.

PRINCIPAL AND AGENT:—

Authority of agent—Fraud of agent—Liability of solicitor for managing clerk taking conveyance from client in his own name and fraudulently disposing of property.—The plaintiff, a widow lady, consulted the defendant's managing clerk as to the sale of certain freehold property and as to a mortgage, and in her evidence alleged that, through his clerk, she had instructed the defendant to act for her as her solicitor. The clerk advised her to convey the property into his name, and this the plaintiff did. He also got the mortgage money. The fraud being discovered, the plaintiff sued the solicitor for delivery up of the deeds and repayment of the mortgage.

Held, that although the managing clerk had transferred the property of the client into his own name and had disposed of it for his own purposes, nevertheless a client dealing with the managing clerk of a solicitor might assume that he was, in advising her, acting within the scope of his authority, and the defendant, therefore, was liable.

Decision of Court of Appeal (55 SOLICITORS' JOURNAL 461; 1911, 2 K. B. 489) reversed.—*LLOYD v. GRACE SMITH & CO., H. L.*, 723.

PROBATE:—

1. *Motion to presume death—Practice.*—On an application to presume the death of a person, who was last seen alive on the 23rd of December, 1909, and whose body was found six days later, the court intimated that no order was necessary if the applicant could swear that the deceased died on the 23rd of December or the 29th of December, 1909, or on some date between the two.—*IN THE ESTATE OF LONG-SUTTON, P.D.*, 293; 1912, p. 97.

2. *Undue influence—Person not a party—Evidence—Statement by accused—Undue influence by dead man.*—Where a plea of undue influence was made against a person not a party to the action the court allowed in evidence a statement made by the person charged although not made in the presence of the testatrix. A jury is entitled to find undue influence against a person who died before the execution of the will.—*RADFORD v. RISDON, P.D.*, 416.

3. *Will—Executor renounced—Subsequent grant of letters of administration to him as creditor.*—After an executor had renounced probate of a will the court made a grant of letters of administration with the will annexed to him as a creditor.—*IN THE GOODS OF TOSCANI, P.D.*, 93; 1912, P. 1.

PUBLIC AUTHORITIES PROTECTION ACT:—

Master and servant—Accident—Corporation as employer—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58)—*Public Authorities Protection Act, 1893* (56 & 57 Vict. c. 61), s. 1.—The Public Authorities Protection Act, 1893, does not apply to claims under the Workmen's Compensation Act, 1906.—*FRY v. MAYOR OF CHELTENHAM, C.A.*, 33.

PUBLIC HEALTH:—

Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 144, 154, 173, and 174—*Local Government—Urban authority—Highway authority—Contract for over £50—Widening the highway—Contract not under seal but executed—Statute of Frauds* (29 Car. 2, c. 3)—*Part performance—Estoppel—Surveyor of highways.*—A contract by a freeholder of land adjoining a lane with the urban authority that he would give them sufficient of such land for a 40 ft. road on condition that they would make up the road was neither signed nor sealed by the urban authority.

Held, that as the contract was of the value of over £50, and as the court was of opinion that the defendants did enter into the agreement as the urban authority and not in the capacity of surveyors of highways, they were subject to the provisions of the Public Health Act, and consequently the plaintiff could not succeed in his action for specific performance of the contract.—*HOARE v. KINGSBURY D.C., Neville, J.*, 704.

PUBLIC POLICY:—

Withdrawal of petition for divorce—Covenant by co-respondent not to go within certain area—Restraint of trade—Liberty of subject—Penalty—Injunction and damages.—A petitioner in a divorce suit withdrew his petition on the co-respondent covenanting not to go within a certain area, and paying a sum of £3,000 to trustees to be held in trust for the plaintiff in case of a breach of the covenant. The co-respondent committed a breach of the covenant, and in an action to restrain the breach, and for payment of the stipulated sum, contended that the covenant was void on the ground of public policy.

Held, that the defence failed, and that the plaintiff was entitled to an injunction and the £3,000.—*UPTON v. HENDERSON, Eve, J.*, 481.

See also Will.

PUBLIC TRUSTEE:—

1. *Appointment by donee of power—Application to restrain appointment—Majority of beneficiaries in favour of appointment—Expense of administration by public trustee—Public Trustee Act, 1906 (6 Ed. 7, c. 55), s. 5, subsection 4.*—Where it is proposed to appoint the public trustee as new trustee of a will, and the majority of the beneficiaries are in favour of the appointment, the court will not make an order prohibiting the appointment merely because of the expense, nor because a minority of the beneficiaries consider that it would be better to have the estate administered by private individuals.—*RE FIRTH, Eve, J.*, 467; 1912, 1 Ch. 806.

2. *Audit of trust accounts—Summons by way of appeal from direction as to costs of audit—Public Trustee Act, 1906 (6 Ed. 7, c. 55), s. 13.*—Where funds had been properly invested and all reasonable information given to a certain beneficiary under a trust, who nevertheless demanded an audit of the accounts of the trust under section 13 of the Public Trustee Act, 1906,

Held, that the decision of the Public Trustee ordering such beneficiary to pay the costs of such an audit was quite right and must be upheld.

Section 13 of the Public Trustee Act does not give to beneficiaries general powers to obtain audits of the trust accounts at the expense of the trust estate.—*RE UTLEY, Swinfen Eady, J.*, 518.

3. *Two settlements—Conflicting interest—Power to compromise—Trustee Act, 1892 (56 & 57 Vict., c. 53), s. 21—Public Trustee Act, 1906 (6 Ed. 7, c. 55), s. 5, sub-section 1.*—The Public Trustee has no more power than a private trustee, where he is in the position of having conflicting interests, to make a bargain with himself, and must accordingly come to the court in the proper proceedings for sanction to such a bargain.—*RE NEW HAW ESTATE TRUST, Parker, J.*, 838.

RAILWAY:—

1. *Right of way—Highway closed under statutory authority—Land vested in company for statutory purposes—Power of re-dedication—Right of way across railway sidings—Compulsory powers of purchase—Purchase under agreement—Extinction of public rights.*—A railway company, which has under statutory authority closed a highway, the soil whereof has become vested in the company for purposes of their undertaking, cannot re-dedicate to the public a right of way, where such right of way is incompatible with the use by the company of the land for the purposes of their undertaking.

A railway company were empowered by statute to purchase a portion of a highway for the purposes of their undertaking, the statute providing *inter alia* that all rights of way over any of the lands, which should under the compulsory powers of that Act be acquired or purchased, should be extinguished. The railway company purchased the portion of the highway from the then owners by private contract, without serving notice to treat under the statute.

Held, that as the site of the highway had not been purchased by the railway company under the compulsory powers of the statute, but by private agreement, public rights of way thereon were not extinguished, but still subsisted.—*GREAT CENTRAL RAILWAY v. BALBY-WITH-HENTHORPE D.C. Joyce, J.*, 343.

2. *Running powers over another line—Amalgamation—Limited running powers of amalgamated company—Railway Clauses Act, 1863 (26 & 27 Vict., c. 92), ss. 38, 39.*—If a railway company, which has limited running rights over the line of another railway company, is dissolved and amalgamated, under an Act which incorporates the provisions of Part 5 of the Railway Clauses Act, 1863, with a third railway company, which possesses general running powers over the same line, the amalgamated company is entitled to enjoy the privileges which the dissolved company possessed only to the same extent and subject to the same conditions as the dissolved company enjoyed them.—*GREAT CENTRAL RAILWAY v. MIDLAND RAILWAY, C.A.*, 160; 1912, 1 Ch. 206.

RATES:—

1. *Poor rate—Rateable occupation—Gathering ground for reservoirs—Acquisition to prevent pollution of water—Acts of occupation by owner—Plantations and nurseries on gathering ground—Basis of rating.*—A corporation acquired a large area of land adjoining that on which their reservoirs and works were erected, which formed the gathering ground or water trap for their waterworks. To obviate all chance of pollution of water so gathered they closed the farms and allowed the land to be untenanted. A small part of the newly-acquired land they utilised as plantations and nurseries for young growing timber, otherwise it was let for sporting purposes, and the shooting rights formed a separate assessment.

Held, that the corporation had such reservation and use of the gathering ground as a whole as to render them, as beneficial occupiers, liable to be rated to the poor rate.

Held, also, that the price paid for the gathering ground was evidence of the rateable value of the land used as plantations and nurseries which could properly be considered in fixing the assessment.

Decision of Divisional Court (1911, 1 K. B. 1057) affirmed on the questions of liability, and as to basis of assessment raised by cross-appeal varied.—*LIVERPOOL CORPORATION v. CHORLEY UNION, C.A.*, 187; 1912, 1 K. B. 270.

2. *Tramways—General district rate—Tramroad constructed under special Acts—"Land used as a railway"—Partial exemption from rates—Public Health Act, 1875, s. 211 (1 B).*—The appellants were incorporated by Acts of Parliament for maintaining and working tramways within the area of the respondent council's jurisdiction.

Held, that the tramway track being land used only as a railway within the meaning of section 211 of the Public Health Act, 1875, the company were entitled to the partial exemption from general district rates conferred by that section.—*METROPOLITAN ELECTRIC TRAMWAYS v. TOTTENHAM URBAN DISTRICT COUNCIL, C.A.*, 290; 1912, 2 K. B. 216.

See also London.

RECEIVER.—See Company, Contempt, Mortgage.

REVENUE:—

1. *Estate duty—Incidence—Settled fund—Finance Act, 1894 (57 & 58 Vict., c. 30), s. 8, ss. iv., s. 14, ss. i.*—C executed a settlement in favour of himself for life, and upon his death for his widow for life, and upon her death, as to £10,000, part of the fund, as she should by will appoint, and as to the residue, to follow the trusts of the settlor's will. In 1908 C died, and estate duty became payable in respect of the settled fund. In 1910 the widow died, having exercised her power of appointment.

Held, that the duty payable in respect of C's death must be apportioned between the persons entitled to the £10,000 and those entitled to the residue of the settled fund.

Berry v. Gankroyer (47 SOLICITORS' JOURNAL, 490; 1903, 2 Ch. 116) followed.—*RE CHARLESWORTH, Joyce, J.*, 108; 1912, 1 Ch. 319.

2. *Estate duty—Personalty in America—One will with English and American executors—Estate duty payable on American personalty—Liability of the English executors—Finance Act, 1894, s. 1, s. 2 (2), s. 6 (3), s. 8 (3)—Domicil of testatrix.*—

1. American personalty of a testatrix domiciled in England must be included in property passing on the death in respect of which estate duty is payable. 2. Executors are liable for estate duty on all the assets of which a testatrix was competent to dispose, including foreign personalty to the extent of assets which come to their hands or which would have so come but for their own neglect or wilful default. 3. The fact that English executors have not the funds nor means of compelling information about them, and accordingly cannot determine the amount of duty payable, does not affect their liability in respect of such duty.—*RE DUCHESS OF MANCHESTER, Swinfen Eady, J.*, 429; 1912, 1 Ch. 540.

3. *Income tax—Company registered abroad—Control in England—Finding of commissioners—Income Tax Act, 1853 (17 & 18 Vict., c. 34), s. 2, Schedule D.*—The finding of the Commissioners of Income Tax that the control of a company registered abroad is in England, and that the company is resident in England for the purposes of income tax, is a finding of fact which can only be impugned in the courts on the ground that there is no evidence to support the finding, and is conclusive if in the opinion of the courts there is such evidence.—*AMERICAN THREAD CO. v. JOYCE, C.A.*, 308.

4. *Income tax—Deduction at the source after the resolution of the Ways and Means Committee of the House of Commons, but before the passing of the Act imposing the duty—Irish Land Act, 1903 (3 Ed. 7, c. 37), ss. 31 and 32—National Debt Act, 1870 (33 & 34 Vict., c. 71), s. 14.*—On a motion for an interlocutory injunction to restrain the Bank of England from deducting income tax from a dividend payable to the plaintiff on his Irish Land Stock before the Act imposing such tax had been passed, but after the passing of a resolution of the Ways and Means Committee of the House of Commons which specified the rate at which such tax would be levied, on the defendants undertaking to pay the amount of the tax into court to abide the order of the court, no order was made on the motion.—*BOWLES v. BANK OF ENGLAND, Parker, J.*, 651.

5. *Income tax—Fire insurance premiums—Unexpired risks—Deductions.*—The appellants, a fire insurance company, had since 1888 carried forward annually in their published accounts 40 per

cent. of their yearly premium receipts in respect of the outstanding liability for unexpired risks. For the year ending the 5th of April, 1906, the sum thus carried forward amounted on a three-years' average to £18,778, and this sum the company claimed to deduct in estimating their profits and gains. The Commissioners found that 40 per cent. of the premium income was a reasonable and proper amount to carry forward in respect of unexpired risks, and they were of opinion that the company were entitled to make the deduction claimed.

Held, that as the true amount of profits and gains was to be ascertained as nearly as possible, the claim of the appellants in this case must be upheld. There was no rigid rule to be applied, and the method to be adopted in the particular circumstances of the particular insurance office must be that which worked most fairly for the Crown and the subject.

Decision of Court of Appeal (27 T. L. R. 392) reversed, and judgment of Bray, J. (26 T. L. R. 341) restored.

General Accident Fire and Life Assurance Corporation v. McGowan (1908, A. C. 207) considered and explained.—*SUN FIRE OFFICE v. CLARK, H. L.*, 378.

6. *Increment value duty—Finance (1909-1910) Act, 1910, s. 27—Provisional valuation—Duty of trustees to check.*—Trustees are under no absolute duty to employ a valuer to check the provisional valuations of the trust property made under section 27 of the Finance (1909-1910) Act, 1910. They have a discretion in the matter which will not be interfered with, especially if the remainderman is *sui juris* and able to protect himself by employing a valuer on his own account.—*RE KNOLLYS' SETTLEMENT, C.A.*, 632.

7. *Legacy duty—Successive interests—Bequests for lives—Remainder to contingent class—Same rate of duty—Possible intestacy—Next-of-kin liable to smaller rate—Mode of payment—Legacy Duty Act, 1796 (36 Geo. 3, c. 52), ss. 6, 12, 15, 17.*—By his will, dated the 9th of October, 1905, a testator devised and bequeathed his residuary real and personal estate to his executors and trustees upon trust for sale and conversion, and directed them to hold the proceeds upon trust to pay the income to three named persons during their joint lives in equal shares, and after the death of one of them to the two survivors during their joint lives in equal shares, and after the death of one of these two survivors, to the survivor for life; and subject thereto, in the events that happened, the capital and income were to be held in trust for a contingent class of their children and issue living at the death of the survivor and attaining twenty-one or, being female, marrying. The contingent class was not yet in existence.

Held, that this was a case of partial interests arising out of the property, and came within section 12 of the Legacy Duty Act, 1796, and that section 17 did not apply, this latter section being a section dealing only with those cases where the legacy or residue was susceptible of retainer, delivery, payment, satisfaction, or discharge within section 6, and accordingly the ultimate rate of duty could not now be determined, so that it could not be paid out of capital.—*RE DUPPA, Swinfen Eady, J.*, 721.

8. *Super-tax—Return of Assessment—Annual tax—Liability to be assessed before passing of Act authorizing tax for year—Budget—Customs and Inland Revenue Act, 1890, s. 30.*—The special commissioners have power during the current financial year to demand returns for the purpose of assessment to the tax known as super-tax, notwithstanding that no such tax has yet been imposed for the year, and that it is theoretically uncertain whether it will be imposed.—*BOWLES v. ATTORNEY-GENERAL, Parker, J.*, 176; 1912, 1 Ch. 123.

ROYAL WARRANT:—

Use of Royal Arms for purposes of trade—Trade Marks Act, 1905 (5 Ed. 7, c. 15, s. 68)—Injunction—Evidence—Belief.—The defendants had exhibited on the front of their premises above the shop window the Royal Arms, but had no authority to use the same.

Held, that the defendants were using the Royal Arms in connection with their trade, and that such use was calculated to lead to the belief that they were employed by, or supplied goods to, His Majesty the King.

Held, also, that, under 5 Ed. 7, c. 15, s. 68, a witness might give evidence that, on seeing the Royal Arms exhibited on the premises, a belief was created in his mind that the defendants had authority to use them.—*ROYAL WARRANT HOLDERS ASSOCIATION v. DEANE, Warrington, J.*, 12; 1912, 1 Ch. 10.

SALE OF GOODS:—

1. *Sale or return—Sub-transfer on sale or return—"Act adopting the transaction"—Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 18.*—Where a person who has received goods on sale or return delivers them to another person on sale or return, he thereby does

"an act adopting the transaction" within the meaning of section 18, rule 4 (a) of the Sale of Goods Act, 1893, so that the property in the goods passes to him.

Kirkham v. Attenborough (1897, 1 Q. B. 201) followed and explained.—*GENN v. WINKEL, C.A.*, 612.

2. *Shipment to be made abroad—C.i.f. contract—"Terms net cash"—Payment claimed against delivery of usual shipping documents—Sale of Goods Act, 1893, s. 28.*—The respondents agreed to purchase a parcel of hops then abroad to be shipped under a c.i.f. contract "terms net cash." The contract did not contain any condition as to when payment was to be made, such as the words "against" or "in exchange for" shipping documents. Before the hops were actually shipped the sellers presented the bills of lading and insurances and demanded payment.

Held, that the buyers, in the absence of any inconsistent terms, were bound under a c.i.f. contract for "net cash" to pay on presentation of usual shipping documents by the seller.

Decision of Court of Appeal (Kennedy, L.J., dissenting) reversed on this point.—*CLEMENS HORST & Co. v. BIDDLE BROS., H.L.*, 50; 1912, A. C. 18.

SCHOOL.—See Charity.

SET-OFF.—See Company, Costs.

SETTLED LAND:—

1. *Improvements—Development of building estates—Compensation to outgoing tenant—Payment out of capital money—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 21, sub-section 10—Agricultural Holdings Act, 1908 (8 Ed. 7, c. 28), s. 20.*—Where agricultural land is to be developed as a building estate by the execution of improvements falling within section 25 of the Settled Land Act, 1882, the outgoing tenant's valuation and compensation for disturbance and compensation for unexhausted improvements not falling within parts 1 and 2 of Schedule I. of the Agricultural Holdings Act, 1908, are not part of the "costs, charges, and expenses incidental" to the execution of the improvements, and are not payable out of capital money arising under the Act.—*RE EARL DE LA WARR'S SETTLED ESTATES, Joyce, J.*, 650.

2. *Tenant for life—Forfeiture clause—Non-residence—Validity of condition—Settled Land Act, 1882 (45 & 46 Vict., c. 38), s. 51.*—A gift by a husband of his house to trustees in trust to allow his wife to reside in it rent free, she paying for repairs, insurance, &c., "and from and after the decease or second marriage of my said wife or of her ceasing to reside at the said dwelling-house," the same to fall into residue, does not prevent the wife from evacuating the house and exercising her power of leasing as tenant for life under the Settled Land Acts, and receiving the rents received from such letting for her own use and benefit during her widowhood.—*RE FREME, Neville, J.*, 362.

See also Costs.

SETTLEMENT:—

1. *Covenant to settle future property of £200 and upwards in value—What constitutes future property of £200 and upwards in value—Policy for £500 on life of husband—Voluntary payment of premiums by husband—Mode of estimating value of property.*—An endowment policy of assurance for £500, on which an annual premium of £6 12s. is payable for twenty years, taken out by a husband on his own life for the benefit of his wife, the premiums being paid by the husband, is not caught by a covenant to settle all the real and personal property to which the wife after the said intended marriage, or at any time during her coverture, shall become entitled, either in possession, reversion or remainder or otherwise, and except any property acquired at one and the same time not exceeding in amount or value the sum of £200.—*RE HARCOURT'S TRUSTS, Swinfen Eady, J.*, 72.

2. *"Eldest son"—Exclusion of—Who intended—Younger son becomes tenant for life.*—The estate of an eldest son who attained the age of twenty-one years, but died a bachelor and intestate, in the lifetime of his father, and without having executed any disentailing assurance of the family property, was held entitled to share in the funds of the personality settlement which were held by the trustees, in default of appointment, "upon the trusts following (that is to say), if there shall be but one child of the said intended marriage (other than such eldest or only son as aforesaid), in trust for that one child to be an interest vested in such child being a son at the age of twenty-one years or being a daughter at the age of twenty-one years or day of marriage which shall first happen. And if there shall be two or more children of the said intended marriage other than such eldest or only son as aforesaid then in trust for such two or more children in equal shares."—*RE CAVENDISH'S SETTLEMENT, Parker, J.*, 344.

3. *Hotspot clause—Settled fund—Covenant to settle after-acquired property—Trusts by reference—Two funds—Application of the hotspot clause.*—A fund of £15,000, the original fund which had been settled by a marriage settlement in 1877, had all been appointed to A. There was a covenant in the settlement to settle after-acquired property, but there was also a provision for keeping intact the £15,000 fund. The hotspot clause in the settlement provided that no child should be entitled to share in the unappointed part of the said trust premises without bringing the share appointed to him into hotspot.

Held that A need not bring the £15,000 appointed to her into hotspot in calculating her share in the after-acquired property which had not been appointed.—*RE CAVENDISH'S SETTLEMENT*, No. 2, *Parker, J.*, 399; 1912, 1 Ch. 794.

4. *Settlor's own property settled on himself—Validity of forfeiture clause.*—A settlor made a settlement of his property by which certain income was to be paid to himself for life or until he should attempt to alienate it. Subsequently he executed a mortgage upon the income payable to him under the settlement.

Held, that the settlor's life interest in the fund was forfeited by operation of the charge.—*RE PERKINS, Warrington, J.*, 412.

SHIPPING :—

1. *Bill of lading—Goods shipped "in apparent good order and condition"—Damage before goods received on board—Estoppel.*—Where goods are shipped under a bill of lading containing a statement that they are shipped "in apparent good order and condition," and are delivered damaged by an external cause, and the shipowner cannot prove that the damage was caused by an excepted peril, the shipowner is estopped from proving that the goods were damaged externally when shipped.

Compania Naviera Vasconzada v. Churchill & Sim (1906, 1 K. B. 237) followed.—*MARTINEAUS (LIMITED) v. ROYAL MAIL STEAM PACKET CO, K.B.D.*, 445.

2. *Bill of lading—Transshipment—Tender of one bill of lading—Right to reject goods.*—By mercantile custom a seller c.i.f. must obtain on shipment a through contract of affreightment to the ultimate destination. *Semble*, where goods are shipped to a port of transshipment before they are despatched to the final port of destination, and there are two bills of lading, a tender of the second bill of lading is not a good tender, and the buyer is entitled to reject the goods.—*LAUNDAUER v. CRAVEN, K.B.D.*, 274; 1912, 2 K. B. 94.

3. *Cargo—Damage by fire—Unseaworthiness.*—The cargo on board a vessel was destroyed by fire, the conflagration having been caused by an escape of oil through a leaking cock. In an action by the cargo owners to recover damages for loss of cargo on the ground of unseaworthiness,

Held, that as there was no defect existing that could not ordinarily be remedied during the course of the voyage, there was no structural defect existing in the vessel at the time of sailing, and, therefore, she was not unseaworthy.—*VIRGINIA CAROLINA CO. v. NORFOLK, &C., SHIPPING CO., K.B.D.*, 722; 1912, 1 K. B. 299.

4. *Charter-party—Bill of lading—Unseaworthiness of ship—Dead freight—Deviation for necessary repairs—Effect on contract of carriage—Lien.*—Where a vessel commences a voyage in an unseaworthy condition, and it becomes necessary in consequence for her to deviate in order to put into a port of refuge for repairs, such deviation does not put an end to the contract of carriage, and the shipowner may nevertheless enforce a lien upon the cargo for "dead freight" under the terms of the charter-party.

Decision of Court of Appeal (1911, 1 K. B. 25) on this point reversed, and judgment of Walton, J. (1910, 2 K. B. 309), restored. *KISH v. TAYLOR, H.L.*, 518.

5. *Collision—Loss occurring through "actual default or privity of owner"—Appointment of incompetent manager—Limitation of liability—Merchant Shipping Act, 1894 (57 & 58 Vict., c. 607, s. 503).*—A collision occurred between *The Fanny* and *The Lily Green*, due to the former breaking adrift during a gale owing to her cables being defective. In a collision action *The Fanny* was held solely to blame.

The defendant in that action, the owner of *The Fanny*, thereupon commenced a limitation action, asking that his liability for the damages awarded to the owner of *The Lily Green* should be ascertained in accordance with the provisions contained in section 503 of the Merchant Shipping Act, 1894. The plaintiff, who was a man of eighty years of age, had appointed his nephew, whom Bargrave Deane, J., found not to be a competent person, to act as his manager.

Held, that whether the nephew was an incompetent person to the knowledge of the plaintiff or not to act as his manager, nevertheless

in the circumstances, the plaintiff was compelled to appoint someone, and being sole owner, in the absence of affirmative evidence that the vessel was sent out with defective cables through his "actual fault or privity," was entitled to the benefit given by the section.

Decision of Bargrave Deane, J. (27 T. L. R. 568), reversed.—*THE FANNY, C.A.*, 289.

6. *Collision—Sound signals for vessels in sight of one another—"Course authorized or required by these rules"—Rules for preventing collisions at sea—Article 28—The words "taking any course authorized or required by these rules" in article 28 of the Regulations for Preventing Collisions at Sea are not limited to the case of a course which at the trial of a collision action is found by the court to have been authorized or required by the rules. It applies to the case of any course taken by a vessel purporting to act under any of the rules with the intention of avoiding immediate danger.*

Decision of Court of Appeal that both vessels were to blame (1911, P. 128) therefore affirmed.—"*HERO*" v. COMMISSIONERS FOR EXECUTING OFFICE OF LORD HIGH ADMIRAL, *H.L.*, 269; 1912, A. C. 300.

7. *Collision—Tug and tow—Division of damages.*—There is no Admiralty rule in force which prevents the owners of a tow from recovering only a moiety of the damage sustained by a collision for which they were not held to blame from the party sued. Therefore the claim for damages may be brought against either of two tortfeasors.

So held, affirming the decision of the President in *The Devonshire* (27 L. T. R. 490).—*THE "SEACOMBE," C.A.*, 140; 1912, P. 21.

8. *Compulsory pilotage—Port of London—Particular provision for the appointment of pilots—Collision—Merchant Shipping Act, 1894, s. 603—General Pilotage Act, 1825 (59 Geo. 4, c. 125), s. 50.*—A vessel outward bound, and carrying passengers, collided with the plaintiffs' barge roads in Bugsby's Reach, in the River Thames. She was at that time in charge of a Trinity House licensed pilot.

Held, that pilotage was compulsory, and that as the collision was solely due to the fault of the pilot, the owners of the vessel were not liable to the owners of the barge roads.

Decision of Evans, P. (1911, P. 234), affirmed.

The Hankow (1 P. D. 197) followed.—"*THE UMSINGA*," *C.A.*, 270.

SMALL HOLDINGS :—

Compensation to outgoing tenant—"Loss or expense directly attributable to quitting"—"Unavoidable"—Sale or removal—Loss on sale—Cost of refreshments at sale—Valuation fee—Small Holdings Act, 1910 (10 Ed. 7, c. 34) s. 1 (1).—A County Council agreed with an outgoing tenant under the Small Holdings Act, 1910, to pay compensation for the loss or expense directly attributable to the quitting which the tenant might unavoidably incur in connection with the sale or removal of his stock, &c., the sum to be settled by arbitration. The arbitrator in his award disallowed the tenant (a) £34, cost of refreshments at auction sale, though finding it customary and desirable to supply refreshments at such sales; he allowed the tenant (b) £21 valuation fee, cost of valuing stock before sale; (c) £181 loss on sale; (d) £2 2s. cost of preparing agreement with the Council.

Held, that (a) was an expense incurred in connection with the sale, and should be allowed to the tenant; (b) was not an expense of the sale, and should be disallowed; (c) was a loss directly attributable to the quitting, and should be allowed; (d) was part of the cost of the arbitration, and should be disallowed.—*RE EVANS AND GLAMORGAN COUNTY COUNCIL, Joyce, J.*, 668.

SOLICITOR :—

1. *Attempt to obtain information from books of a company—Offer of remuneration to company's servant.*—A solicitor who endeavours to obtain information as to unclaimed stocks and dividends of a company by an offer to remunerate a subordinate servant of that company, in return for the information desired, is guilty of professional misconduct.—*RE C, A SOLICITOR, K.B.D.*, 93.

2. *Bill of costs—Delivery one month before action—Posting of bill—"Sent by the post"—Computation of time—Solicitors Act, 1843 (6 & 7 Vict. c. 73), s. 37.*—By section 37 of the Solicitors Act, 1843, "no attorney or solicitor . . . shall commence or maintain any action or suit for the recovery of any fees, charges or disbursements for any business done by such attorney or solicitor, until the expiration of one month after such attorney or solicitor . . . shall have delivered unto the party to be charged therewith, or sent by the post or left for him at his counting-house, office or dwelling-house, or last-named place of abode, a bill of

such fees, charges and disbursements," signed by such attorney or solicitor, or enclosed in or accompanied by a letter signed in like manner referring to such bill.

Held (Buckley, L.J., dissenting), that the words "sent by post" referred to the time when, in ordinary course of post, such bill would be delivered to the client, and not to the time when it was posted.

Held, further, that where the bill is "sent by post to" the person to be charged, time runs from the day when the bill would be delivered in ordinary course of post, the period of one month to be reckoned.—*BROWNE v. BLACK, C.A.*, 144; 1912, 1 K. B. 316.

3. *Certificate—Grant of annual certificate—Discretion—Malice—Cause for refusal—Non-payment of costs of litigation to Law Society—Solicitors' Act, 1888 (51 & 52 Vict., c. 65), s. 16—Solicitors Act, 1899 (62 Vict., c. 4), s. 2.*—In order to entitle a solicitor to maintain an action against the Law Society for damages for refusing to grant him an annual certificate at the expiration of a period of suspension from practice ordered by the court, it is not sufficient to show that they have exercised their discretion wrongly, but it must also be shewn that they were actuated by malice in so refusing the certificate.—*NEWSON v. LAW SOCIETY, K.B.D.*, 520.

4. *Company—Costs—Bill of costs delivered to the company—Taxation twelve months after bill delivered—Payment on account Effect of intervening voluntary winding-up—Retainer—Form of order—Solicitors Act, 1843 (6 & 7 Vict., c. 73), ss. 37, 38 and 41.*—(1) The mere delivery of a cash account by the creditor to the debtor shewing that the creditor has appropriated certain moneys advanced by the debtor to him in settlement of his account, does not constitute a settlement of that account. (2) The doctrine laid down in *Re Marselles Extension Railway and Land Co.* (1870, 11 Eq. 151) extends to cases of voluntary windings-up as well as to cases of compulsory winding-up, and accordingly if the date of the resolution to voluntarily wind up is within a year of the date of the delivery of the solicitor's bill the bill is still liable to be taxed, the material date being the date of the windings-up and not the date of the summons. (3) In voluntary windings-up the order to tax need not be made under the Solicitors Act, 1843 (6 & 7 Vict., c. 73), but may be made under the general jurisdiction of the court.—*RE FOSS, BILBROUGH & Co., Neville, J.*, 574.

5. *Costs—Disbursements—Bill increased by error—Taxation—Taxing off more than one sixth—Effect of error—Liability for costs of taxation—Solicitors Act, 1843 (6 & 7 Vict., c. 73), s. 37.*—Where a solicitor has bona fide and by a palpable error, increased his bill of costs by including disbursements which have been recovered, and where the disallowance of these items has had the effect of causing the amount taxed off to exceed one-sixth, the court has a discretion to relieve the solicitor from the obligation to pay the costs of taxation.—*RE R, A SOLICITOR, Parker, J.*, 74.

6. *Costs—Agreement to take percentage of sum recovered—Non-contentious proceeding—ChamPERTY—Improper agreement—Attorneys and Solicitors Act, 1870 (33 & 34 Vict., c. 28), ss. 4, 10, 11.*—An agreement between a client and solicitor whereby the latter is to be remunerated by a percentage of a sum to be recovered in a matter that is not a suit, action or contentious proceeding, though not champertous, will be strictly regarded by the court, which, in considering its propriety, will have regard to whether the client had independent advice, and fully understood the purpose of the agreement.—*RE HOGGART, Joyce, J.*, 415.

7. *Costs—Lien—Property recovered or preserved for a company—Application after winding-up.*—A solicitor's common law lien for his costs on a fund, or the fruits of a judgment recovered by his exertions, prevails over the rights of the liquidator of a company, and he is entitled to exercise his lien as against everyone.—*RE METER CARS (LIMITED), Swinfen Eady, J.*, 36; 1911, 2 Ch. 557.

8. *Costs—Taxation—Public body—Common order—Local authority—Disbursements made on special instructions—No question of quantum—Propriety of expenditure qua ratepayers—Province of taxing master—Solicitors Act, 1843 (6 & 7 Vict., c. 73), s. 37—Public Health Act, 1875 (38 & 39 Vict., c. 55), sections 247 and 249.*—A solicitor acting for a public body is entitled to have his bill taxed in the ordinary way as between solicitor and client, and the taxing master has no power to tax it on the footing of preventing the waste of rates in useless expenditure.—*RE PORTER, Swinfen Eady, J.*, 521.

9. *Costs—Taxation after payment—Special circumstances—Solicitors Act, 1843 (6 & 7 Vict., c. 73), sections 39, 41.*—The fact that a solicitor's bill of costs contains charges open to criticism amounts to "special circumstances" within the meaning of section

41 of the Solicitors Act, 1843, so as to entitle an interested party to an order for taxation after payment of the bill.—*RE N, A SOLICITOR, Joyce, J.*, 520.

10. *Costs—Undertaking to refund—Money received by client—Solicitor ordered to repay—Order and schedule inconsistent—Appeal.*—An order dismissing an action with costs directed the money paid into court by the plaintiff as security to be paid to the defendant's solicitors on account of their costs, they undertaking to refund if directed by the C.A. The schedule to the order directed payment to the defendant personally. The defendant changed his solicitors, and received the money out of court by virtue of the schedule. The appeal was afterwards allowed with costs, but no costs of trial on either side.

Held, that the solicitors could be ordered upon motion to refund the money so received by their late client, in pursuance of their undertaking.—*DOTESIO v. BISS, C.A.*, 736.

11. *Interest in debt-collecting company—Company adjunct to solicitor's business—Remuneration by percentage of debt recovered—Champerty.*—It is professional misconduct for a solicitor to carry on a debt-collecting company as an adjunct to his practice as a solicitor, and the receipt by him, through the agency of such company, of a percentage upon debts recovered is champertous.—*RE G, A SOLICITOR, K.B.D.*, 92; 1912, 1 K. B. 302.

12. *Partnership with unqualified persons—"Touting" amongst prisoners.*—A solicitor purported to act for, and subsequently to employ, unqualified persons. He allowed them to carry on a business in his name, in the course of which they solicited money from the friends of prisoners, and obtained permission to see prisoners awaiting trial, with offers of legal assistance. The solicitor exercised no supervision over them, but received various sums as his share of profits.

Held, that the solicitor was guilty of professional misconduct.—*RE D, A SOLICITOR, K.B.D.*, 93.

13. *Unqualified person—Money in hands of unqualified person—Payment into court—Summary jurisdiction—Motion.*—The appellant was an unqualified person, who allowed a solicitor to occupy a room in his office. Legal work was done in the name of the solicitor, who received from the appellant a share of the profits. In the winding-up of a company, money became payable to the solicitor on behalf of the receiver in the action, part of which was received by the appellant as representative of the solicitor, and part was received by the solicitor and handed to the appellant, who misapplied it. On motion in a summary way for an order on the appellant to pay the money into court,

Held, reversing the decision of Eve, J. (*ante*, p. 520), and distinguishing *Re Hulme & Lewis* (1892, 2 Q. B. 261), that as the appellant had not obtained the money as a result of pretending to be a solicitor, the court had no jurisdiction to proceed against him in a summary way, and exercise the power of discipline which it has over its own officers by ordering him to pay the money into court upon motion.—*RE HURST & MIDDLETON, C.A.*, 652.

See also Appeal.

SPECIFIC PERFORMANCE:—

Promise to leave a legacy by will—Consideration for marriage.—Expression of intention—Importing a promise—Statute of Frauds.—The father of an intended bride, when asked by the husband to make a settlement, wrote: "I have made a will leaving V (the bride) a legacy of £5,000, and I do not intend to alter it. I shall leave the allowance of £150 as it is." The will was afterwards revoked.

Held, that the letter followed by the marriage constituted an enforceable contract as to the £5,000, but not as to the £150, and that B was entitled to prove against the estate of the father for the £5,000 by way of damages.—*RE BROADWOOD, C.A.*, 703.

STOCK EXCHANGE:—

Commission—Broker's commission over and above contango—Right of "half-commission man" to share in—Usage of the Stock Exchange—Proof of custom.—There is no custom of the Stock Exchange whereby a "half-commission man" can claim a half-share of the small extra charge for expenses made by the broker over and above the ordinary continuation charge or contango which is receivable by the "jobber."—*VON TAYSEN v. BAER, ELLISSEN & Co., Parker, J.*, 224.

TENANT FOR LIFE:—

Repairs—Leasehold and freehold properties—Liability of corpus or income for repairs.—The tenant for life is only liable to keep leasehold properties in such a state of repair as they were in when she became tenant for life on the death of the settlor, and accord-

ingly the trustees of the property should, at the date of the death of the settlor, do all repairs necessary to put the property in a proper state of repair to satisfy the covenants in the leases, and charge the same out of the corpus of the estate. Repairs to freeholds must be borne by the corpus.—*RE SUTTON, Neville, J.*, 650.

TIMBER :—

Settlement of personal estate—Power to invest in real estate—Purchase by trustees of timber estate—Rents and profits—Periodical cuttings—Tenant for life—Remainderman.—Where a timber estate has been purchased under a power in a settlement to invest in real estate, the net proceeds of sale of the trees cut from time to time in the proper course of the management of such an estate after payment thereof of all costs of replanting, repairing fences, and all other proper costs incidental to the proper preservation and management of such an estate, would be rents and profits arising under the settlement, and would accordingly be payable to the tenant for life.—*RE TREVOR-BATYE, Parker, J.*, 615.

TITHE RENT CHARGES :—

Payment in error—Mistake of fact—Right to recover—Principal and agent—Bankruptcy Act, 1883 (46 & 47 Vict., c. 52), s. 52—Tithe Act, 1891 (54 & 55 Vict., c. 8), s. 10, sub-section 2.—Where certain moneys payable as tithe rent charge had been demanded in error by a sequestrator of the property of a bankrupt rector, and had been paid by mistake by the trustees of the estate out of which they had formerly been properly payable after the right to demand them had ceased,

Held, that the destination of the money could not be assumed beyond the sequestrator, and that the sequestrator was liable to refund such moneys, he being something more than an agent of the trustee in bankruptcy of the bankrupt rector.—*BAYLIS v. BISHOP OF LONDON, Neville, J.*, 614.

TRADE-MARK :—

1. *Foreign words—Suggestion that goods are of foreign origin—Trade-Marks Act, 1905 (5 Ed. 7, c. 15).*—Foreign words forming part of a trade-mark or trade description do not necessarily indicate that the goods to which the mark applies are the product of the country in which that language is spoken.—*RE VAN DER LEEUW'S TRADE MARK, Parker, J.*, 53 ; 1912, 1 Ch. 40.

2. *Motion to remove—Respondent not to be found—Service—Non-user for five years—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 37.*—Where the proprietor of a registered trade-mark cannot be found, an application to take the trade-mark off the register, on the ground of non-user for five years, may be made without service on the proprietor.—*RE SMOLENS' TRADE MARK, Eve, J.*, 240.

3. *Surname—Distinctive word—"Adapted to distinguish"—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 9, sub-section 5.*—Special applications were made by L. J. Lea (Limited) to register the word "Boardman's" as a trade-mark for manufactured tobacco, and by Wm. McEwan & Co. to register "McEwan's" as a trade-mark for beer.

Held, that the mere surname of an individual could not be adapted to distinguish the goods manufactured by that individual from those of other persons within the meaning of the Trade-Marks Act, 1905, section 9, and could not be registered as a trade-mark.—*RE LEA'S TRADE-MARK, Joyce, J.*, 308.

4. *Surname represented in particular manner—Application refused—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 9, sub-section 5.*—A mark which is in fact nothing more than a mere surname represented in a special or particular manner is not a registrable trade-mark, except under an order of the Board of Trade.—*RE BENZ & CIE, Joyce, J.*, 481.

TRADE NAME :—

1. *Company—Similarity of name—Calculated to mislead—Transfer to company of the name of an individual.*—Although a man is entitled to carry on business in his own name in competition with a similar business previously established under a similar name notwithstanding confusion may arise as to the identity of the two businesses, and although a man having so carried on business and having acquired a goodwill may be entitled to transfer his goodwill to a company, yet if he has not established a business in his own name he cannot by promoting and registering a company with a title of which his name forms a part, confer upon that company the rights which he, as an individual, possesses in the use of that name.—*KINGSTON, MILLER & CO. v. KINGSTON & CO., Warrington, J.*, 310 ; 1912, 1 Ch. 575.

2. *Right to trade under one's own name—Similarity of name—Confusion of names and goods.*—A man, so long as he acts

honestly, may trade under his own name, even though the similarity of such name to the name under which another person has previously been trading may occasionally lead to confusion or lead to the goods of the one being mistaken for the goods of the other trader.—*ARTIGESELSSCHAFT HOMMEL HAEMATOGEN v. HOMMEL, Eve, J.*, 399.

3. *Use of name calculated to mislead—Dissimilar business.*—A corporation employed as their agents in a particular town a firm of shipbrokers. A limited company was incorporated under a name similar to that of the corporation, and carried on business in the same town as shipbrokers, but did not carry on any business similar to that carried on by the agents of the corporation as such.

Held, that the limited company could not be restrained from using a name similar to that of the corporation.—*LLOYDS AND DAWSON BROS. v. LLOYDS, SOUTHAMPTON (LIMITED), Warrington, J.*, 361.

TRADE UNION :—

1. *Action by member to enforce benefits—Illegality of association—Restraint of trade—Trade Union Acts, 1871 (34 & 35 Vict., c. 31), s. 4, and 1876 (39 & 40 Vict., c. 22), s. 10.*—An action having been commenced by the widow and personal representative of a member of a trade union, claiming a declaration that her husband was entitled to superannuation benefit from August, 1904, to the date of his death in November, 1907, the society pleaded that the rules of the society were illegal at common law, as being in restraint of trade, and therefore the action was not maintainable. On that ground the Court of Appeal, affirming the decision of Phillimore, J., dismissed the action.

Held, dismissing the widow's appeal, that the action being against a trade union directly to enforce or recover damages for a breach of an agreement to provide benefits for its members, was not maintainable.

Decision of Court of Appeal (54 SOLICITORS' JOURNAL, 213 ; 1910, 1 K. B. 506) upheld, although on different grounds.—*RUSSELL v. AMALGAMATED SOCIETY OF CARPENTERS, H.L.*, 342.

2. *Illegal association—Expulsion of member—Rules—Ultra vires—Injunction.*—Although there is no express provision in the Acts dealing with trade unions that the statutes 39 Geo. 3, c. 79 and 57 Geo. 3, c. 19, dealing with unlawful combinations and confederacies, shall not apply to trade unions, yet such a provision must necessarily be implied from the attitude of the Legislature towards trade unions, such attitude being quite inconsistent with there being any criminality in them.—*LUBY v. WARWICKSHIRE MINERS' ASSOCIATION, Neville, J.*, 670.

3. *Inducing employer to break contract—Threats—Trade Disputes Act, 1906.*—Members of a trade union were agitating to compel all their fellow miners to join the union. An agent of the union informed the manager that, unless the plaintiffs joined, the pit would stop. The judge held that this did not involve a threat to cause a strike, and dismissed an action by the plaintiffs for wrongfully causing their employer to break their contracts.

Held, that there was no ground for upsetting this finding.

Held also, that the acts, even if wrongful, were done during a trade dispute within the meaning of the Act of 1906, and that the action was not maintainable.

Held also, that a union is not excluded from the protection of the Act because some of the things which it does are not among the authorized objects of trade unions as defined by the Act.—*GASKELL v. LANCASHIRE AND CHESHIRE MINERS' FEDERATION, C.A.*, 719.

4. *Libel on firm—"Printer's fair list"—"In contemplation or furtherance of a trade dispute"—Immunity of union—Trade Disputes Act, 1906, s. 4—R.S.C. XXV. 4.*—Section 4 of the Trades Disputes Act, 1906, enacts that (1) An action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court. (2) Nothing in this section shall affect the liability of the trustees of a trade union to be sued in the events provided for by the Trade Union Act, 1871, section 9, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

The plaintiffs, a firm of printers, complained of an alleged libel contained in a letter written by Mr. Naylor on behalf of the defendant trade union covering a new edition of the "Printer's Fair List" which was issued by the society to firms and societies likely to require a large amount of printing work. The letter read :— "We forward the latest edition of our 'Fair List.' May I beg you

to make a study of it before placing any orders for printing? Owing to an advance movement in the trade there have been several important alterations, and I ask you to destroy the list previously sent you." The society appealed from an order of Channell, J., at Chambers directing the action to proceed against them.

Held (Farwell, L.J., dissenting), that the alleged libel came within the words in section 4 (2) "in contemplation or in furtherance of a trade dispute," and that the defendant society was entitled to be struck out of the writ of summons and all subsequent proceedings.—*VACHER & SONS v. LONDON SOCIETY OF COMPOSITORS, C.A.*, 442.

5. *Rules—£100 benefit on total incapacity—To be returned on resumption of work—Action by union for return of £100—Agreement as to conditions of employment—Penalty—Application of funds to provide benefits to members—Proceedings instituted with object of directly enforcing agreement—Trade Union Act, 1871 (34 & 35 Vict. c. 31), s. 4 (1), (2), and 3 (a).*—The defendant, a member of a trade union, met with an accident which totally incapacitated him from work, and from the effects of which it was not thought likely he would ever so far recover as to return to his old employment. His union, according to their rules, paid him a sum of £100, on receipt of which the member had to sign, and did sign, a written agreement binding himself to repay that sum to the union in full in the event of his recovery, and his returning to work at his old trade. The agreement so executed recited the rules under which the money was paid and would become repayable by the defendant, and after acknowledging the receipt of the £100, and agreeing to repay it in the said event, empowered the plaintiffs (the trustees of his union) to sue for it, if it was not repaid on the happening of that event. The defendant having returned to his trade, and the £100 not having been repaid by him, the plaintiffs sued for its recovery.

Held (Kennedy, L.J., dissenting), that the action was not maintainable.—*FRIENDLY SOCIETY OF IRONFOUNDERS v. INGALL, C.A.*, 122.

TRAMWAY:—

Lease—Power of lessees to grant licences to tramway company—Consent of Board of Trade—Eccles Corporation Act, 1901, s. 24.—Where a corporation is authorized to grant leases of its tramways with the consent of the Board of Trade, another corporation to whom a lease of tramways has been duly granted cannot, without such consent, license a tramway company to use the tramways in question, although both the lessee corporation and the tramway company have statutory powers enabling them respectively to grant and accept such licences.

So held, affirming an order of the Court of Appeal, *sub nom. Eccles Corporation v. South Lancashire Tramways Co.* (54 SOLICITORS' JOURNAL, 561; 1910, 2 Ch. 263), which reversed a decision of Eve, J. (79 L.J. Ch. 275).—*SALFORD CORPORATION v. ECCLES CORPORATION, H.L.*, 428.

See also Rating.

TRESPASS:—

Right of tenant of sporting rights to check progress of heath fire by burning strips of heather—Act found reasonable in the circumstances, although not in fact necessary to protect game—Claim for injunction.—The defendant was a gamekeeper employed by the tenant of sporting rights over heath land leased from the plaintiff. A fire having broken out on the heath, the defendant sought to check its progress by burning strips of heather to the leeward of the fire. In an action against the defendant the following questions were left the jury: "Was the method adopted by the defendant in fact necessary for the protection of his master's property?" and "If not, was it reasonably necessary in the circumstances?" The jury answered the first question in the negative and the second in the affirmative.

Held, Vaughan Williams, L.J., dissenting, that the defendant was entitled to judgment upon the ground that the finding of the jury that "in the circumstances"—involving as that expression did (1) the existence of the sporting lease, (2) the rights and interests of the lessee in the property which was in danger, (3) the proximity of the fire, and (4) the condition of the herbage—the method adopted by the defendant for the protection of his master's property was necessary to meet the threatened danger, and was reasonably used, was a good defence in law to an action for trespass.

Decision of Divisional Court (27 T. L. R. 396) reversed.—*COPE v. SHARPE, C.A.*, 187; 1912, 1 K. B. 496.

TRUSTEE:—

1. *Breach of trust—Laches or acquiescence of beneficiary—Liability of trustee prevented by illness from discharging his*

duties.—An annuitant is not guilty of such laches as would disentitle her to recover arrears of her annuity merely on the ground that she has not actively enforced the performance of the duty of the trustees to pay her such annuity regularly.

Trustees are appointed for the protection of the *cestuis que trust*, and so long as they remain trustees they are responsible for their duties as such.—*RE RIX, NEVILLE, J.*, 573.

2. *Investment—Duty of trustees—Negligence—Effect of Trustee Act, 1888 (51 and 52 Vict., c. 59), s. 4 (1)—Right to effect a loan of a full two-thirds of the value of the security.*—Trustees who, in advancing money on the security of property, have complied with the provisions of section 4 (1) of the Trustee Act, 1888 (now section 8 (1) of the Trustee Act, 1893, 56 and 57 Vict., c. 53), are not chargeable with breach of trust by reason of their having neglected to make any inquiries as to the properties personally, although such inquiries might have disclosed facts which should have prevented them advancing the money.—*NORE v. MEYER, Warrington J.*, 109; 1912, 1 Ch. 261.

3. *Liability—Dual position of tenant for life and trustee—Unauthorized investment—Restoration of capital with interest—Capital and income—Claim to excess of interest beyond the amount obtainable from authorized investments.*—A tenant for life is not liable to make good to the capital fund any excess of interest which he obtains from unauthorized investments provided the capital fund is not diminished by reason of such investments, and this principle holds good even though the tenant for life may happen to be also a trustee.—*RE HOYLES, Swinfen Eady, J.*, 110; 1912, 1 Ch. 67.

4. *Vesting order—Person absolutely entitled—Request in writing to trustee to transfer trust funds—Service of request—Trustee Act, 1893 (56 & 57 Vict., c. 53), s. 35, sub-section 1 (ii) d.*—The court will make a vesting order under section 35, sub-section 1 (ii) d. of the Trustee Act, 1893, where the trustee does not appear on the petition, provided an affidavit is filed stating that the petition has been served on the trustee, and also that the request, in writing, addressed and sent to him in accordance with the terms of such section, has not been returned by the Post Office.—*RE STRUVE'S TRUSTS, Parker, J.*, 551.

VENDOR AND PURCHASER:—

1. *Leasehold house—Mortgages selling—Breaches of covenant to repair—No express notice of breaches—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), s. 3, sub-section 4—No express covenant for title—Production of last receipt for rent by vendor—Liability of vendor for all past breaches of covenant—Good title not shewn.*—Where a mortgagee of a leasehold under his power of sale contracts to sell all the premises and all the residue of the term, and the purchaser covenants to pay the rent, and perform the covenants contained in the lease, and to indemnify the mortgagee against "the said rent and covenants," and the purchaser has no express notice that there have been breaches of the covenants, as, in fact, there have been, the vendor must, nevertheless, make good such breaches, even though he has not expressly covenanted to give a good title.

The case of *Hughett and Bird's Contract* (1903, 1 Ch. 289), as explained by *Allen and Driscoll's Contract* (1904, 2 Ch. 230), distinguished.—*RE TAUNTON AND WEST OF ENGLAND BUILDING SOCIETY, Parker, J.*, 688.

2. *Memorandum—Purchaser's name written by a third person at the instance of the purchaser—Statute of Frauds (29 Car. 2, c. 3), s. 4—Misrepresentation.*—A memorandum of a transaction of purchase, written at the time when and the place where such transaction took place, and at the purchaser's dictation, by a relative of the vendor, who was present when the transaction was entered into, is a sufficient memorandum or note of the agreement in writing signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized, to satisfy the fourth section of the Statute of Frauds.—*BROOKS v. BILLINGHAM, Neville, J.*, 503.

3. *Open contract—"Leasehold house"—Underlease of part of property comprised in two head leases—Good title—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), s. 3, sub-section (3), s. 14.*—A purchaser entered into an open contract to purchase a "leasehold house." The leasehold agreed to be sold appeared from the under lease with which the title commenced to be part only of property comprised in two head leases.

Held, that the title made by the vendors was not a good one.—*RE LLOYDS BANK AND LILLINGTON'S CONTRACT, Warrington, J.*, 380; 1912, 1 Ch. 601.

4. *Right of repudiation—Damage caused by vendor to subject matter—Duty of purchaser repudiating.*—The purchaser of a

boarding establishment in leasehold premises took possession by agreement before the date fixed for completion. A distress having been put in for rent due from the vendor, the purchaser gave the boarders notice to quit, and repudiated the contract.

Held, that this circumstance was not so damaging or destructive to the subject matter as to entitle the purchaser to repudiate.

Per Farwell, L.J.—The giving notice to quit was wrongful, as it was the purchaser's duty, even if entitled to repudiate, to take the best care of the subject matter till the vendor had an opportunity of resuming control.—*DOTESIO v. BISS, C.A.*, 612.

5. *Terms of existing tenancy—Compensation for unexhausted improvements—Notice—Inquiry—Duty of purchaser—Agricultural Holdings Act, 1908* (8 Ed. 7, c. 28), s. 2.—Where, in a contract for the sale of land, the conditions of sale provide that the purchaser shall take subject to all the terms of existing tenancies, on completion of the sale the purchaser will be deemed to have notice of a tenant's claim to compensation for unexhausted improvements arising under the terms of his lease, and will be liable for the payment thereof.

A purchaser is deemed to have notice of a tenant's claim to compensation under the Agricultural Holdings Act, 1908.—*RE LORD DERBY'S CONTRACT, Joyce, J.*, 71; 1912, 1 Ch. 479.

6. *Title offered not substantiated, but another good title shown—Possessory and statutory title.*—A title which depends on the Statute of Limitations, and shews by documents that the claim of the rightful owner is effectually barred, is a good title, which can be forced on a purchaser, although there is nothing in the conditions to shew that the title is in fact possessory.—*RE ATKINSON AND HORSSELL'S CONTRACT, C.A.*, 324; 1912, 1 Ch. 2.

WATERWORKS:—

Water supply—Workhouse—Private dwelling-house—Supply by rent or meter—"Private"—Bristol Waterworks Act, 1862.—By a Waterworks Act it was provided that the company should, on request, furnish to every occupier of a private dwelling-house a sufficient supply of water for domestic use at certain annual rents. The guardians of a workhouse who had for many years been supplied with water by measure applied to the company to be supplied with water at an annual rent under the above section.

Held, that a workhouse was not a private dwelling-house within the meaning of the section, and therefore the guardians were not entitled to be supplied with water at an annual rent.—*BRISTOL GUARDIANS v. BRISTOL WATERWORKS, Eve, J.*, 34; 1912, 1 Ch. 846.

See also London.

WILL:—

1. *Advancement clause—Fee to architect—Hotchpot.*—A fee paid to an architect by the testator to enable his son to learn the business of an architect is not an "advancement" for the benefit of the son, and need not be accounted for.—*RE WATNEY, Swinfen Eady, J.*, 109.

2. *Bequests of leasehold house and furniture—Onerous bequest—Separate and independent gift—Legatee's right of disclaimer.*—A testatrix by her will bequeathed to L her leasehold house with the appurtenances belonging thereto for all the residue of the term for which the same was held, subject to the rent reserved by and the covenants and conditions contained in the lease under which the said premises were held, together with all articles of personal or domestic or household or stable or garden use or ornament, and she further bequeathed to L all the ready money which at her decease might be in her house or standing to the credit of her current account at her bankers; she also gave him a life interest in certain trust funds.

Held, that L was entitled to disclaim the bequest of the leasehold house and accept the gift of chattels and other benefits contained in the will.

Syer v. Gladstone (30 Ch. Div. 614) as explained by *Re Baron Kensington* (1902, 1 Ch. 203) and *Re Hotchkys* (32 Ch. Div. 408) considered, and followed.—*RE LYONS, Joyce, J.*, 705.

3. *Bequest to chapel building fund—Reversionary bequest to same—Immediate bequest held invalid in 1876 under then existing Statute of Mortmain—Claim to reversionary bequest—Plea of res judicata—Mortmain and Charitable Uses Act, 1888* (51 & 52 Vict., c. 42)—*Application of Act to fund for building.*—A will proved in 1874 gave an immediate legacy of £200 to a chapel building fund, and also a reversionary bequest, payable after the death or remarriage of the testator's widow. The executors believed that these legacies transgressed the then operative Statutes of Mortmain, and an order was made in chambers, dated the 8th of May, 1876, directing that the £200 should fall into the residue. The testator's widow died in 1909.

Held, that the representatives of the building fund were entitled to the reversionary bequest, inasmuch as the fund had other objects than those involving the purchase of land, to which the money might be applied.

Held, further, that the order of 1876 did not constitute an estoppel by *res judicata*, as such order had been in respect of another bequest, and had been based on a belief which was erroneous.—*RE SURFLEET'S ESTATE, Parker, J.*, 15.

4. *Capital or income—Lease—Breach of covenants to repair—Damages—"Rents, dividends, interest, and other produce thereof."*—A testator left his property to trustees, and directed that for the purposes of enjoyment and transmission the estate should be regarded as money from the time of his death. He also provided that the "rents, dividends, interest, and other produce" accruing between the time of his death and the conversion of the property should be deemed the annual income thereof. At the time of the death of the testator certain real estate was subject to a lease, and the trustees obtained damages from the lessees for breach of covenants to repair.

Held that the money so recovered was not annual income, but part of the corpus of the estate.—*RE PYKE, Warrington, J.*, 380; 1912, 1 Ch. 770.

5. *Charitable bequest—Gift to named institution—Institution ceasing at death of testatrix—General charitable intention—Cy-près.*—A testatrix bequeathed her property to the Ormond Home for Nurses, an institution founded and controlled solely by herself for nursing the working classes. The institution charged small fees, payable by instalments, and was entirely self-supporting. On the death of the testatrix the work ceased to be carried on, and the premises were disposed of.

Held, that the bequest was for the continuance of the work carried on by the home, which was a charitable work, and was therefore a good charitable gift, for the purposes of which there must be a scheme *cy præs*.—*RE WEBSTER, Joyce, J.*, 90; 1912, 1 Ch. 106.

6. *Class—Children and collaterals—Gift to include persons who predecease testator leaving issue at his death—Niece dying before testator—Valid gift to personal representative—Wills Act, 1857* (1 Vict., c. 26), s. 33.—A testator bequeathed and devised his residuary estate to trustees upon trust to convert the same, and after making certain payments to divide the residue among all his children, both sons and daughters, and his niece, E. C. R., in equal shares as tenants in common, the said niece and children to form one class together taking in equal shares, and in case any one of the said residuary legatees might die in the testator's lifetime leaving any issue who should be living at the testator's death, then and in such case the gift of a share of residue in favour of such residuary legatee should take effect in the same manner as if such residuary legatee had survived the testator and died immediately after his death. The niece died in the lifetime of the testator, leaving issue who were living at the testator's death.

Held, that under the will there was a good gift of the share of the deceased niece to her legal personal representative as part of her estate.

Re Gresley (1911, 1 Ch. 358) not followed.—*RE CLUNIES-ROSS, Joyce, J.*, 252.

7. *Codicil—Exercising power of appointment—Construction—Remoteness—Share of income to daughter while unmarried—Reduced on marriage—Codicil altering share of income—Duration of payment of altered share not mentioned—Duration fixed by will implied.*—By a codicil the testatrix, in exercise of a power of appointment contained in her marriage settlement, revoked "that part of my will which directs that two-thirds of my income shall be paid annually to my daughter Olive while unmarried, and direct that three-fourths—i.e. about £150—be paid her annually, and also the remaining £50 should Evelyn Charlotte die without children and Olive Rachael be unmarried at the time."

Held, a gift of three-fourths of the income to Olive while she remained unmarried.

Held also, that the following gifts of income were void for remoteness: (1) To the daughters in equal shares should one of them marry. (2) To the surviving daughter in case one dies in the lifetime of the other without leaving issue. (3) The gift of the £50 per annum to Olive should Evelyn die without children and Olive be unmarried at the time.—*RE CRICHTON'S SETTLEMENT, Neville, J.*, 398.

8. *Codicil—Revocation by codicil of residuary bequest in will.*—A testatrix, by her will made in 1875, bequeathed the residue of her property upon trust after a life estate for a charity, and by a codicil made in 1901, she appointed W her residuary legatee "bequeathing to her all that is not specified in my will."

Held, that the codicil was antagonistic to the residuary gift in the will and was an effective revocation of the same.—*RE PEREIRA, Joyce, J.*, 614.

9. *Construction—Absolute gift or estate for life—Words sufficient to pass realty.*—A testator by his will bequeathed his property in these terms: "I devise and bequeath to my wife all the property of which I am possessed, whether it be leasehold property, stock-in-trade, accounts in my books, machinery, goods of every description, and furniture, to hold and to use for her benefit and the benefit of any of my children under the age of twenty-one years until they reach that age, and if she deem it advisable to dispose of any of the said property she may do so at her will, and at her death whatsoever property may remain shall be equally divided among my children."

Held, that the testator's real estate passed under the will; and further held, that it went to the wife for life, with a power to dispose of it during her lifetime and then to the children.—*ROBERTS v. THORP, Warrington, J.*, 13.

10. *Construction—Appointment of executors and trustees—Legacies to trustees as such—Codicil—Revocation of appointment and legacy—Substitution of new trustee—Implied revocation.*—A testatrix appointed two trustees of her will, and gave to each of them a legacy of £500. She also gave to each of the trustees for the time being of her will an annuity of £50 so long as the trusts should continue. By a codicil she revoked the appointment of one of the trustees, and appointed another in his place, to whom she gave a legacy of £50 for his trouble, and declared that the will should be construed as if the name of the new trustee had been inserted throughout the will.

Held, that the new trustee was entitled to the legacy of £50 and to the annuity of £50, but not to the legacy of £500.

Re Freeman (1910, 1 Ch. 681) followed.—*RE MELLOR, Eve, J.*, 596.

11. *Construction—Bequest of annuity *pur autre vie*—Duration of the annuitant's interest—Death of the annuitant before the *cestui que vie*—Payment "during the widowhood of my said wife . . . out of the income of my trust fund" of "the following yearly sums of money; . . . to my said daughter, Ellen Alice Francis, £100" gives an annuity to Ellen Alice Francis, which continues to be payable after her death to her legal personal representative during the widowhood of the testator's widow.—*RE DRAYTON, Neville, J.*, 253.*

12. *Construction—Bequest of "money" deposited in the Post Office Savings Bank—Consols purchased with some of the money on deposit—A residue in cash left on deposit—Whether the Consols passed under the bequest.*—In those cases where there is a residuary bequest under a will, a gift of the residue of the moneys "standing to my credit at the Post Office Savings Bank" after paying legacies thereout does not pass Consols standing to the same credit, and of which the dividends are paid into the account, but which were purchased prior to the date of the will.—*RE MANN, Neville, J.*, 272; 1912, 1 Ch. 388.

13. *Construction—Bequest to the Oxford Angling and Preservation Society—Purpose beneficial to the community—Voluntary association—Charity—Perpetuity—Will speaking from the death—Ademption—Money invested in London and County Banking Co. shares—Transfer of undertaking to London County and Westminster Banking Co.—Wills Act, 1837 (1 Vict. c. 26), s. 24.—(1) A gift to a society for the preservation of angling in a particular part of the Thames is not a charitable gift, and if it tends to a perpetuity, is void.*

(2) A gift of "twenty-three of the shares belonging to me in the London and County Banking Co. (Limited)," is valid to pass ninety-two of the shares belonging to the testator's estate at the time of his death in the London County and Westminster Banking Co. (Limited), provided it is possible to identify these ninety-two shares as the equivalent of the original twenty-three shares in another form.—*RE CLIFFORD'S ESTATES, Swinfen Eady, J.*, 91; 1912, 1 Ch. 29.

14. *Construction—Forfeiture—Not to live with or under control of father—Void—Against public policy—Uncertainty.*—A clause in a will that all benefits given thereunder should be forfeited "if at any time on or before the 31st day of December, 1927, either or both of my grandchildren shall live with or be or continue under the custody, guardianship, or control of their father" was held to be void both as being against public policy and also for uncertainty.—*RE SANDBROOK, Parker, J.*, 721.

15. *Construction—Gift of all my real and personal estate whatsoever absolutely—Directions to pay debts—Power of disposal—The "residue" to be divided.*—A testator gave to his wife, so long as

she remained his widow, "all my real and personal estate whatsoever absolutely," and at her death, or on her remarriage, the "residue" thereof was to be divided between his brothers and sisters.

Held, that the wife took only a life estate.—*RE JOHN DIXON, Neville, J.*, 445.

16. *Construction—Gift of income to several persons—Substitutional gift to children—Gift over on death of survivor—Death in testator's lifetime—Partial intestacy.*—The general rule of construction which by implying a joint tenancy or survivorship prevents a partial intestacy on a gift of income to several persons, with a gift over of the corpus on the death of the survivor, is not to be extended to cases where there is an express gift of the parents' share, to the children of any of the original life tenants who died before the period of dissolution leaving children. Accordingly there may be in such a case an intestacy as to the income of some shares until the period of sale and distribution.—*RE HOBSON, Parker, J.*, 400; 1912, 1 Ch. 626.

17. *Construction—Gift of realty—"Die without leaving a male heir"—Failure of heirs at time of death—Estate in fee simple—Wills Act (1 Vict. c. 26), s. 29.*—A testator by his will devised real estate upon trust to pay the annual income thereof to R until he should assign, charge or otherwise dispose of the same, or become bankrupt, which of the said events should first happen, and in the event of R assigning, charging, or becoming bankrupt, to accumulate for the benefit of the male heir of his body until he attain the age of twenty-one years; and should he die without leaving any male heir, then the trustees should pay the annual income to W, F, and H, and the respective male heirs of their bodies successively in tail.

Held, that, without prejudice to any claim of the person who might be male heir, or male heir of the body of R at the time of his death, to an estate by purchase under the will, R was entitled to an equitable estate in fee simple, determinable in the event of his assigning, charging, or becoming bankrupt, which estate, if R should die without assigning, charging, or becoming bankrupt, would become an ordinary estate in fee simple, subject to the executory limitation in favour of W, F and H, in the event of R dying without leaving any male heir of his body at the time of his decease.—*RE LEACH, Joyce, J.*, 649.

18. *Construction—Gift to children or other issue—Alternative or substitutional gift.*—On the construction of a very obscurely worded will,

Held (*dub.* Cozens-Hardy, M.R.) that a gift to children or other issue went to the surviving children, excluding the issue of those dead at the period of distribution.

Decision of Warrington, J. (reported *ante*, p. 361), affirmed.—*RE PEARCE, C.A.*, 686.

19. *Construction—Gift to successors to titles.*—A testator having a title in the peerage of Scotland and in the peerage of the United Kingdom, left his property in England and Scotland without reservation or hindrance to his successors in the titles. One individual, both at the time of the will and of the death of the testator, was in fact next entitled to both titles.

Held, that the intention of the testator was to make an absolute gift of the property in each country to the person who should succeed him in either title.—*RE EARL CATHCART, Warrington, J.*, 271.

20. *Construction—Insufficient estate—Priorities—Gift of legacies—Gift of annuities—Further gift of legacies—Meaning of words "subject thereto."*—The meaning of the words "subject thereto" in a will must be discovered by an examination of the whole scheme of the will, and must not always be taken to mean subject to all that has gone before such words.—*RE COLVILLE, Swinfen Eady, J.*, 33.

21. *Construction—Legacy—Direction to pay income for three years after death to A, followed by bequests of legacies—Death of legatee within the three years—Vested or contingent legacy.*—A trust to sell and pay the annual income arising from such sale to A during the three years immediately following the testator's death, and from and after the determination of such three years upon trust to pay out of the capital of the said trust fund legacies to B, C and D, gives B a vested interest in his legacy immediately on the death of the testator. Such a legacy does not lapse by reason of B dying before the expiration of the period of three years from the testator's death.—*RE BOAM, Swinfen Eady, J.*, 142.

22. *Construction—Legacy—Substitutionary gift—Death of devisee in lifetime of testator leaving issue—Devise taking effect as if devisee had survived the testator—Will following the words of Wills Act, 1837 (7 Will. 4, and 1 Vict. c. 26), s. 33.*—It was held

that a testator was legally entitled to avoid, and had, in fact, avoided the consequences of a legacy lapsing in accordance with the general law, by reason of the death of the legatee in his lifetime by the use of the following words: "If any of them, my said brothers B. and J., my niece, A. C., and my nephew, J. S., shall die in my lifetime, leaving issue, and any of such issue shall be living at my death, the benefits hereinbefore given to him or her so dying shall not lapse, but take effect as if his or her death had happened immediately after mine.—RE GREENWOOD, *Parker*, J., 443; 1912, 1 Ch. 392.

23. *Construction—Legacy*—"When and so soon as he shall attain the age of twenty-six years"—*Trust of part of income for benefit of married daughters—Interim gift of annuity to legatee—Accumulations—Vested or contingent legacy*.—A testator bequeathed certain specific shares upon trust out of the income and profits to pay certain sums in augmentation of the income of his married daughters, and, subject thereto, to pay an annuity to his son till he attained the age of twenty-six, and on his attaining the age of twenty-six to hold the shares and the accumulations of income arising therefrom for the son absolutely. There was no gift-over in the event—which happened—of the son surviving the testator, but dying under twenty-six.

Held, that the shares in question had not been severed from the rest of the estate, so as to shew that the gift-over to the son, which was *prima facie* contingent, was intended to be vested.—RE NUNBURNHOLME, C.A., 343; 1912, 1 Ch. 489.

24. *Construction—Legacy to executor and trustee—Subsequent revocation by codicil of appointment as executor—Implied revocation of legacy*.—A testatrix by her will appointed "my friends F and C to be the executors and trustees of this my will, to each of whom I give the legacy, or sum, of £500." By a codicil the testatrix declared, "I hereby revoke the appointments of C as executor, and in his stead appoint the Public Trustee as executor of my will with F."

Held, that the legacy in the will was to C, in the character of executor, and that C was not entitled to take.

Walne v. Hill (1883, W. N. 171), followed.—RE RUSSELL'S TRUSTS., *Joyce*, J., 651.

25. *Construction—Meaning of the words "remaining children."*—The words "remaining children," unless another meaning can be inferred from the context, may be taken to mean the other children, or "the rest" of the children not otherwise dealt with, and cannot be construed, apart from other circumstances in the will, to suggest such construction, to mean the surviving children.—RE SPEAK, *Parker*, J., 273.

26. *Construction—Meaning of words, "shall become entitled as aforesaid."*—The testator gave a life interest in the income of certain real property to A, and after her death, in the event, which happened, of there being no children of A, to take under the provisions of the will, the corpus was to be conveyed and assured to her three brothers, as tenants in common. But in case all or any of such brothers shall die before becoming "entitled as aforesaid," then she directed that the trustees should convey and assure the share of the brother so dying to the daughters of such brother. The three brothers all survived the testator, but all died in the lifetime of the tenant for life.

Held, that they had never become "entitled as aforesaid," and that their respective daughters were accordingly entitled to have their respective portions of the property conveyed and assigned to them.—RE WHITE, *Swinfen Eady*, J., 109.

27. *Construction—Perpetuities—Remoteness—Vesting or contingent gift—Equity rule as to interest on legacies—Payment of legacies when postponed*.—A gift by B to all or any of the children or child of A who shall be living at A's death, who, being a son or sons, shall attain the age of twenty-three years or survive the survivor of B and A for the period of twenty-one years, or, being a daughter or daughters, shall attain the age of twenty-three years or marry, if more than one, in equal shares as tenants in common, is void, as infringing the rule against perpetuities.

Where there was a gift of an annuity which was to take priority of all other payments, followed by a gift of legacies which were to abate proportionally, if the moneys "ultimately applicable" for their payment were insufficient, followed by a direction that if the payment of the purchase money for the testator's business was spread over a number of years, the annuity aforesaid should be a first charge on those moneys, and the residue of such moneys should go in payment of interest at 4 per cent. on the legacies, so far as it could.

Held, that these clauses did not amount to an expression by the testator of an intention to postpone the payment of the legacies, and accordingly that the legatees were entitled to have 4 per cent.

interest on their legacies after the expiration of a year from the death of the testator, which happened on the 9th of January, 1885.—RE HUME, *Parker*, J., 414; 1912, 1 Ch. 693.

28. *Construction—Power to advance to tenants for life—Hotch-pot*.—A proviso in a will authorizing trustees, notwithstanding anything therein before contained—i.e., notwithstanding, *inter alia*, gifts of income to the children, followed by gifts of capital to the grand-children—to apply moneys out of the capital for or towards the advancement or preferment of the children, limited to a certain amount in the case of each child, is a proviso which contemplates the bringing into account of such sums as were so advanced as against the share of the stirps of the child to whom such advancement was made.—RE SPARKES, *Swinfen Eady*, J., 90.

29. *Construction—Probate copy translated from the Spanish construed as if it were the original—"Distribute"—Time of vesting—Defensance*.—A direction to distribute on the death of a tenant for life, followed by a proviso that in the event of the death of all objects to whom such distribution is to be made without descendants, there is to be a gift-over, does not make such direction to distribute inconsistent with the rule in *O'Mahoney v. Burdett* (1874, 7 H. L. 389), and accordingly the objects to whom such distribution is to be made are indefeasibly entitled, and take absolutely on the death of the tenant for life.—RE MACKINLAY, *Swinfen Eady*, J., 142.

30. *Construction—Release of debt—Covenant in a mortgage—Evidence of intention of testator—Consideration—Release at law*.—A direction by a testator in his will to his trustees to pay his son a sum of money, coupled with evidence that at the time when the testator took security from his son for a debt still owing, he had said that he did not intend to enforce such security, does not amount to a release of such debt, and the trustees can accordingly retain such legacy, and set it off against the debt, which was of larger amount than the legacy.—RE TINLINE, *Parker*, J., 310.

31. *Construction—Settled legacy—Lapse—Death of life tenant before testator*.—A testator bequeathed his residuary estate to be divided between his five named children, "subject to the trusts following," which were in effect a settlement on each child for life, with remainder as to the capital of the share to his grandchildren, the children of such child, with accretion to the other shares in default of such grandchildren. One of the children died in the lifetime of the testator, leaving no issue him surviving.

Held (reversing the decision of *Neville, J.*), that the share of the deceased child did not lapse, but accrued to the other shares.—RE WALTER. *FURNER v. WALTER, C.A.*, 632.

32. *Construction—Special power of appointment—Whether exercised or not—Use of the word "appoint"—Appointment to persons not objects of the power—Direction to pay debts and funeral expenses—Indications of contrary intention—Common form words in will*.—A testatrix who "gave, devised, bequeathed and appointed all her real and personal estate not thereby otherwise disposed of (including all property over which she had a power of appointment) unto her trustees upon trust for sale," and to pay the income to her husband for life, and after his decease in trust for all her children in equal shares, was held not to have exercised a special power of appointment which she had under the will of an aunt.—RE SANDERSON, *Neville, J.*, 291.

33. *Construction—Specific legacy—Misdescription—Shares in a company—Amalgamation with another company—Extrinsic evidence—Admissibility*.—By her will, made in 1907, a testatrix gave to her son all the shares in the W company belonging to her at the time of her decease. There was no company of that name in existence at the date of the will nor at the death of the testatrix in 1911, but for some years prior to 1900 the testatrix had held shares in the A company, and in that year the W company was amalgamated with the A company, the testatrix receiving shares in the latter company in exchange for her shares in the absorbed company, which she still held at the date of her death.

Held, that the shares in the A company did not pass to the specific legatee, but fell into the residue.—RE ATLAY, *Eve, J.*, 444.

34. *Construction—Survivorship—Shares to children after death of life tenant—Class—Gift over to survivors in case of death—Survivorship referred to death of life tenant*.—A testator directed that his estate should be divided among his children as a class upon the death of his widow, and that in case of the death of any one or more of them their share or shares should be divided between the survivors.

Held (reversing the decision of *Joyce, J. (ante, p. 252)*), that survivorship referred to the death of the widow, and that a child who survived the testator, but died in the lifetime of the widow took no share.—RE POULTNEY, C.A., 667; 1912, 1 Ch. 245.

35. *Construction—Trust for conversion—Power to postpone—Accumulation—Tenant for life and remainderman—Unauthorized investment—Equity rule as to calculation of amount on which 4 per cent. interest is allowed for tenant for life—Unauthorized investments producing no interest—Remainderman—Leasehold let at a loss.*—The equity principle of allowing interest at 4 per cent. on the estimated capital value of unauthorized investments as at the date of the death of the testator, which are retained only for the purpose of beneficially realizing the estate, only applies to income as far as it is applicable thereto; but where there was a loss of £50 per annum on a leasehold property which had belonged to the testator, but which was now a *damnosa hereditas*, and was saved by the trustees by being let as well as was possible, such a loss was held to be a debt of the testator, and chargeable against capital as an outgoing of the estate and not against the income of the tenant for life.—*RE OWEN, Neville, J.*, 381; 1912, 1 Ch. 519.

36. *Construction—Trustee to enter during minority of tenant in tail—Omission of words "by purchase"—Perpetuity—Legal limitations—Implied estate—Power of tenant in tail to bar.*—When a will settled land by a series of legal limitations, a clause that the trustees might enter into receipt of the rents and profits during the minority of a tenant in tail was held not to be void as infringing the rule against perpetuities owing to the omission of the words "by purchase." Such a clause does not imply a legal estate in the trustees; it is collateral to the estate tail, and can be barred by the tenant in tail.—*RE EARL OF STAMFORD AND WARRINGTON, C.A.*, 204; 1912, 1 Ch. 343.

37. *Construction—Two codicils—When class closes.*—By a second codicil a testator narrowed down an absolute gift in the will to W. J. Curzon, which had been reduced to a life interest in the first codicil to a life interest forfeitable on bankruptcy, and after this interest had determined the property was to go upon the trusts "in the will contained," and as an acceleration to such trusts—i.e., to all the children of the said W. J. Curzon who attained twenty-one. One child, the plaintiff, had attained that age.

Held, that the class was closed so soon as W. J. Curzon was adjudicated a bankrupt.—*RE CURZON, Neville, J.*, 362.

38. *Construction—Words of futurity—Gift to nephews and nieces—Gift to children of nephew or niece who should die in the lifetime of the tenant for life under the will—Nieces dead at date of the will, leaving a child.*—The child of a niece, dead at the date of the will, of a testator was held entitled to share under a trust "for all my nephews and nieces living at the decease of the said Sarah Waterfall (the tenant for life), as tenants in common in equal shares, provided always that if any of my said nephews and nieces shall die in the lifetime of the said Sarah Waterfall, leaving a child or children who shall survive her, and being a son or sons, shall attain the age of twenty-one years, or, being a daughter or daughters, shall attain that age, or marry under that age, then and in every such case the last-mentioned child or children shall take (and, if more than one, equally between them) the share which his, her, or their parent would have taken of and in the proceeds of my said estate if such parent had survived the said Sarah Waterfall."—*RE TAYLOR, Swinfen Eady, J.*, 175.

39. *Directions to pay legacies in "This my will" free of duty—Codicils—Legacies given in trust in lieu of direct legacies in will—Additional beneficiaries—Incidence of duty—Application of words "This my will" to codicils.*—A direction to pay legacies given by "this my will" free of duty does not apply *prima facie* to every legacy subsequently given by codicil; and though the direction applies to legacies given in substitution for those in the will, and to the same beneficiaries, yet where the codicil gives legacies in trust, in lieu of direct, and under the trust fresh beneficiaries are added, these trust legacies must bear their own duty.—*RE TRINDER, Parker, J.*, 74.

40. *Executor manager of business—Salary given by will—Legacy—Insolvent estate.*—A testator empowered his trustees to appoint one of their number to manage his business till sale, at a salary, the estate afterwards proving insolvent.

Held, that the gift of salary was a legacy, and could not be paid in priority to the creditors of the estate.—*RE SALMEN, C.A.*, 632.

41. *General legacy in will—Pious wish—Pecuniary trust of such legacy contained in codicil.*—The words "I desire the £300 which I have bequeathed to A to be divided by her on her death, as she shall think fit, amongst the daughters of my cousin B" create a trust capable of being enforced.—*RE JEVONS, Swinfen Eady, J.*, 72.

42. *Gift of carriages, horses, harness, and stable furniture—Some carriages and horses sold—Motor-car purchased—Motor-car not included in gift—Collocation of words ejusdem generis with horse traction only.*—Where a testator, by his will, gives his carriages, horses, harness, and stable furniture to his wife, and subsequently to the making of his will sells some of his carriages and horses, and purchases a motor-car, such motor-car does not pass under the gift of carriages, horses, harness, and stable furniture.—*RE HALL, WATSON v. H., Parker, J.*, 615.

43. *Gift of rents and profits of residue—Intention to give rents of leaseholds in specie—Rule in Howe v. Lord Dartmouth—Capital and income.*—A testator gave his residuary estate to trustees on trust to permit his widow to receive the rents and profits thereof for her own use and benefit. The residue comprised freeholds and leaseholds.

Held that, on the true construction of the will, there was no intention that the rents of the leaseholds should be enjoyed in specie, but that the rule in *Howe v. Lord Dartmouth* applied, and the widow was only entitled to interest on the capital value of the leaseholds at the date of the testator's death.

Re Gams (1897, 1 Ch. 881) approved.—*RE WAREHAM, C.A.*, 613.

44. *Implied gift—Class, when ascertained—Child who pre-deceased tenant for life.*—A gift upon trust for the daughter of the testatrix for life, and after her death "upon trust for her child, if only one, or her children in equal shares if more than one, and the issue of any deceased child or children, such issue being born in the lifetime" of the daughter, does not confer any interest on a daughter who died before the death of the tenant for life, a spinster.—*RE SHAW-WILLIAMS v. PLEDGER, Neville, J.*, 380.

45. *Legacies—Priority—Words, "After making provision."*—A testator bequeathed certain personal legacies, and continued, "after making provision for the above-mentioned sums, I direct" certain legacies to be paid to charities. The estate was insufficient to pay all the legacies in full.

Held, that the personal legacies had priority over the charities. Decision of *Joyce, J.*, affirmed.—*RE OLIVIERI, C.A.*, 613.

46. *Legacy—Fund wholly reversionary—Time from which interest runs—Demonstrative legacy.*—Held, affirming the decision of the Court of Appeal, reported *sub nom. In Re Walford, Kenyon v. Walford* (1912, 1 Ch. 219), that a demonstrative legacy directed to be paid out of a reversionary fund did not afford an exception to the general rule that, where no time is fixed for payment, a legacy carries interest from the expiration of twelve months from the testator's death.—*WALFORD v. WALFORD, H.L.*, 631.

47. *Limitations after an estate tail—Remoteness—Perpetuity—Gift not vesting immediately at expiration of estate tail—Gift vesting within permitted period—Valid gift.*—A limitation after an estate tail is not void for remoteness, even though the persons entitled cannot be definitely ascertained immediately on the determination of the estate tail, if in the circumstances the persons entitled and their shares can all be definitely ascertained within the period of a life in being at the time of the testator's death and twenty-one years after.—*RE HAYGARTH, Joyce, J.*, 230; 1912, 1 Ch. 510.

48. *Misdescription of devisee—Gift to John William H.—No such person at date of will—John Robert H. entitled.*—A testator devised freehold property to John William H., the son of Israel H. There was no such person living at the date of the will, but Israel H. had a son John Robert H.

Held, that John Robert H. was entitled. *Re Ely* (65 L. T. 452), not followed.—*RE HALSTON, Eve, J.*, 311; 1912, 1 Ch. 435.

See also *Charity, Probate*.

STATUTES

Passed in the Autumn Sitting of Parliament, 1911-12 (1 & 2 Geo. 5).

CHAPTER 31.

[MERCHANDISE MARKS ACT, 1911.]

An Act to amend Section Sixteen of the Merchandise Marks Act, 1887.

[16th December 1911.]

Be it enacted, &c. :

1. *Power to require information in respect of imported goods bearing fraudulent marks.*—(1) Where any goods which, if sold, would be liable to forfeiture under the Merchandise Marks Act, 1887 [50 & 51 Vict. c. 28], are imported into the United Kingdom, and the goods bear any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer, or trader in the United Kingdom, and the Commissioners of Customs and Excise are, upon representations made to them, satisfied that the use of the name or trade mark is fraudulent, the proper officer of Customs and Excise may require the importer of the goods or his agent, to produce any documents in his possession relating to the goods, and to furnish information as to the name and address of the person by whom the goods were consigned to the United Kingdom and the name and address of the person to whom the goods were sent in the United Kingdom; and, if the importer or his agent fails within fourteen days to comply with any such requirement, he shall, for each offence, forfeit the sum of one hundred pounds.

(2) Any information obtained from the importer of the goods or his agent under this section, or from any other source, may be communicated by the Commissioners to any person whose name or trade mark is alleged to have been used or infringed.

(3) This section shall have effect as if it were part of section sixteen of the Merchandise Marks Act, 1887.

2. *Short title.*—This Act may be cited as the Merchandise Marks Act, 1911, and the Merchandise Marks Acts, 1887 to 1894, and this Act may be cited together as the Merchandise Marks Acts, 1887 to 1911.

CHAPTER 32.

[EDUCATION (ADMINISTRATIVE PROVISIONS) ACT, 1911.]

An Act to make provision for the better administration by the Central and Local Authorities in England and Wales of the Enactments relating to Education.

[16th December 1911.]

Be it enacted, &c. :

1. *Power of Board of Education to make contribution orders in respect of border children.*—(1) Where any children resident in the area of any local education authority for the purpose of Part III. of the Education Act, 1902 [2 Edw. 7. c. 42], are receiving education in any public elementary school within the area of some other local education authority, the Board of Education may, if they think fit, on the application of that other local education authority (in this section referred to as the applicant authority), and after giving the first-named local education authority (in this section referred to as the respondent authority) an opportunity of being heard, make a contribution order under this section.

(2) For the purpose of this section, a contribution order means an order directing the respondent authority to pay to the applicant

authority annually such sum as the Board think proper in respect of children resident in the area of the respondent authority who, in the opinion of the Board, are properly receiving education in a public elementary school within the area of the applicant authority.

(3) In considering whether children are properly receiving education in a school outside the area in which they reside, the Board of Education shall have regard to the interests of secular instruction, to the wishes of parents as to the education of their children, and to economy of rates.

(4) Any sum due to an applicant authority under a contribution order shall be recoverable as a debt due to that authority from the respondent authority, and the Board of Education may, if they think fit, without prejudice to any other remedy on the part of the applicant authority, pay any such sum to the applicant authority, and deduct any sum so paid from any sums payable to the respondent authority on account of Parliamentary grants.

(5) If any question arises between the applicant and respondent authorities as to the amount due in any year under a contribution order, that question shall be referred to the Board of Education, and the decision of the Board shall be final.

(6) The Board of Education may revoke or vary a contribution order on the application either of the applicant authority or of the respondent authority after giving the other authority an opportunity of being heard. A contribution order shall not be made under this section so as to alter, without the consent of the parties, the effect of any subsisting agreement made between two or more local education authorities before the passing of this Act with respect to contributions in connexion with the education, within the area of one education authority, of children resident within the area of another such authority.

2. *Amendment of s. 22 (2) of Education Act, 1902, as to date at which the limit of age under that subsection is to be reckoned.*—For the purposes of subsection (2) of section twenty-two of the Education Act, 1902, the Board of Education may, on the application of the local education authority, by order, substitute, as respects any public elementary school within the area of the authority, the close of the educational year as fixed by the Board for that school for the close of the school year, and, as respects any such school, that subsection shall have effect as if the close of the educational year fixed by the order were substituted for the close of the school year.

3. *Exemption of school buildings from building byelaws where plans approved by Board of Education.*—The provisions of any byelaws made by any local authority under section one hundred and fifty-seven of the Public Health Act, 1875 [38 & 39 Vict. c. 55], as amended by any other Act, with respect to new buildings (including provisions as to the giving of notices and deposit of plans and sections), and any provisions in any local Act dealing with the construction of new buildings, and any byelaws made with respect to new buildings under any local Act, shall not apply in the case of any new buildings being school premises to be erected, or erected, according to plans which are under any regulations relating to the payment of grants required to be, and have been, approved by the Board of Education.

4. *Audit of accounts of governing bodies under 52 & 53 Vict. c. 40.*—The accounts of the receipts and expenditure of any governing body to whom in pursuance of a scheme made under the Welsh Intermediate Education Act, 1889 [52 & 53 Vict. c. 40], any payments are made out of any general fund administered by a local education authority as a governing body under that Act, as well as the accounts of the receipts and expenditure of any local education authority in its capacity as such a governing body, shall be audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts and to all matters incidental thereto or consequential thereon (including the penal provisions of those enactments) shall apply accordingly, and any provisions in any scheme which relate to the audit of the accounts of any such governing body shall cease to have effect.

5. *Short title.*—This Act may be cited as the Education (Administrative Provisions) Act, 1911, and shall be construed as one with the Education Acts, 1870 to 1909, and those Acts and this Act may be cited together as the Education Acts, 1870 to 1911.

CHAPTER 33.

[ISLE OF MAN HARBOURS ACT, 1911.]

An Act to amend the Law relating to the Harbours of the Isle of Man.

[16th December 1911.]

CHAPTER 34.

[RAILWAY COMPANIES (ACCOUNTS AND RETURNS) ACT, 1911.]

An Act to amend the Law with respect to the Accounts and Returns of Railway Companies.

[16th December 1911.]

CHAPTER 35.

[LOCAL AUTHORITIES (IRELAND) (QUALIFICATION OF WOMEN) ACT, 1911.]

An Act to enable Women to be elected and act as Members of County and Borough Councils in Ireland.

[16th December 1911.]

CHAPTER 36.

[PACIFIC CABLE ACT, 1911.]

An Act to extend the Pacific Cable Act, 1901.

[16th December 1911.]

CHAPTER 37.

[CONVEYANCING ACT, 1911.]

An Act to amend the Conveyancing and Law of Property Act, 1881.

[16th December 1911.]

Be it enacted, &c. :

1. *Discharge of incumbrances by the court.*—On any application under section five of the Act of 1881 the court may, if it thinks fit, as respects any purchaser or vendor, dispense with the service of any notice which is, by section sixty-nine of that Act, required to be served on the purchaser or vendor.

2. *Benefit of condition already broken to run with reversion.*—(1) Section ten of the Act of

1881 shall apply to the benefit of every condition of re-entry or forfeiture for a breach of any covenant or condition contained in a lease, so as to enable the same to be enforced and taken advantage of by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased, although that person became, by conveyance or otherwise, so entitled after the condition of re-entry or forfeiture had become enforceable, provided that he became so entitled as aforesaid after the commencement of this Act.

(2) This section shall not render enforceable any condition of re-entry or other condition waived or released before the person became entitled as aforesaid.

3. Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of leases.—

(1) For the purpose only of enabling a lease, authorised under section eighteen of the Act of 1881, as varied by this section, or under any agreement made pursuant to section eighteen aforesaid, or by the mortgage deed (in this section referred to as an authorised lease) to be granted, a mortgagor of land while in possession shall, in like manner as if the legal estate were vested in him and as against every incumbrancer, have, by virtue of this Act, power to accept from time to time a surrender of any lease of the mortgaged land or any part thereof comprised in the lease, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them, and, on a surrender of part only of the land or mines and minerals leased, the rent may be apportioned.

(2) For the same purpose, a mortgagee of land while in possession shall, in like manner, and as against all prior or other incumbrancers, if any, and as against the mortgagor, have, by virtue of this Act, power to accept from time to time any such surrender as aforesaid.

(3) On a surrender of part only of the land or mines and minerals leased, the original lease may be varied, provided that the lease when varied would have been valid as an authorised lease if granted by the person accepting the surrender; and, on a surrender and the making of a new or other lease, whether for the same or for any extended or other term, and whether subject or not to the same or to any other covenants, provisions, or conditions, the value of the lessee's interest in the lease surrendered may, subject to the provisions of this section, be taken into account in the determination of the amount of the rent to be reserved, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

(4) Nothing in this section shall, where any consideration (except an agreement to accept an authorised lease) for the surrender is given by or on behalf of the lessee to or on behalf of the person accepting the surrender, authorise a surrender to a mortgagor without the consent of the incumbrancers, or authorise a surrender to a second or subsequent incumbrancer without the consent of any prior incumbrancer.

(5) No surrender shall, by virtue of this section, be rendered valid unless:—

(a) An authorised lease is granted of the whole of the land or mines and minerals comprised in the surrender to take effect in possession immediately or within one month after the date of the surrender; and

(b) The term certain or interest granted by the new lease is not less in duration than the unexpired term or interest which would have been subsisting under the original lease if that lease had not been surrendered; and

(c) Where the whole of the land mines and minerals originally leased has been surrendered, the rent reserved by the new lease is not less than the rent which would have been payable under the original lease if it had not been surrendered; or where part only of

the land or mines and minerals has been surrendered, the aggregate rents respectively remaining payable or reserved under the original lease and new lease are not less than the rent which would have been payable under the original lease if no partial surrender had been accepted.

(6) A contract to make or accept a surrender under this section may be enforced by or against every person on whom the surrender, if completed, would be binding.

(7) Subsections (13) (16) and (17) of section eighteen of the Act of 1881 shall have effect as if they were re-enacted in this section, and references to the commencement of that Act shall, for the purposes of this section, be read as references to the commencement of this Act.

(8) Nothing in this section shall prevent the mortgage deed from reserving to or conferring on the mortgagor or mortgagee, or both, any further or other powers relating to the surrender of leases; and any further or other powers so conferred or reserved shall be exercisable, as far as may be, as if they were conferred by this Act, and with the like results, unless a contrary intention is expressed in the mortgage deed.

(9) Nothing in this section shall operate to enable a mortgagor or mortgagee to accept a surrender which could not have been accepted by the mortgagor, with the concurrence of all the incumbrancers, if this Act had not been passed.

(10) For the purposes of this section, and of subsection (1) of section eighteen of the Act of 1881, the expression "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.

(11) The powers of leasing and of accepting surrenders respectively conferred by section eighteen of the Act of 1881, and this section, shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by a mortgagee, under that Act, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land.

4. Powers incident to estate or interest of mortgagees.—(1) The power of sale conferred on a mortgagee by section nineteen of the Act of 1881 shall include the following powers as incident thereto (namely):—

(i) A power to impose or reserve or make binding, as far as the law permits, by covenant, condition, or otherwise, on the unsold part of the mortgaged property or any part thereof, or on the purchaser and any property sold, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or for the purpose of the more beneficial working thereof, or with respect to any other thing;

(ii) A power to sell the mortgaged property, or any part thereof, or any mines and minerals apart from the surface:—

(a) With or without a grant or reservation of rights of way, rights of water, easements, rights, and privileges for or connected with building or other purposes in relation to the property remaining in mortgage or any part thereof, or to any property sold;

(b) With or without an exception or reservation of all or any of the mines and minerals in or under the mortgaged property, and with or without a grant or reservation of powers of working, wayleaves, or rights of way, rights of water and drainage and other powers, easements, rights, and privileges for or connected with mining purposes in relation to the property remaining unsold, or any part thereof, or to any property sold;

(c) With or without covenants by the purchaser to expend money on the land sold.

(2) Subsections (2) and (3) of section nineteen of the Act of 1881 shall apply to the foregoing powers conferred by this section.

(3) This section applies only where the mortgage deed is executed after the commencement of this Act.

(4) For the purpose of exercising any power conferred by this section, an application under section forty-four of the Trustee Act, 1893 [56 & 57 Vict. c. 55], as amended by section three of the Trustee Act, 1894 [57 Vict. c. 10], shall not be required.

5. Amendments of section 21 of the Act of 1881.—(1) Upon any sale made in professed exercise of the power conferred on mortgagees by the Act of 1881, a purchaser is not, and never has been, either before or on conveyance, concerned to see or inquire whether a case has arisen to authorise the sale, or due notice has been given, or the power is otherwise properly and regularly exercised.

(2) Subsection (6) of section twenty-one of the Act of 1881 shall, as regards mortgages executed after the commencement of this Act, be read as if the words "or of any power or provision contained in the mortgage deed" were added at the end thereof.

6. Remedies for recovery of annual sums charged on land.—(1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply to any powers or remedies conferred by section forty-four of the Act of 1881, nor to the same or like powers or remedies conferred by any instrument for recovering or compelling the payment of any annual sum within the meaning of that section.

(2) The powers and remedies conferred by the last-mentioned section are exercisable whether the annual sum is created under a power contained in an instrument coming into operation before or after the commencement of the Act of 1881, and take effect unless the instrument creating the power or under which the annual sum is created otherwise directs.

(3) This section applies to powers and remedies conferred by or implied in an instrument executed before as well as after the commencement of this Act.

7. Power for court to bind interest of married woman.—(1) Where a married woman is restrained from anticipation or from alienation in respect of any property or any interest in property belonging to her, or is by law unable to dispose of or bind such property, or her interest therein, including a reversionary interest arising under her marriage settlement, the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in such property.

(2) This section applies only to judgments or orders made after the commencement of this Act.

(3) Section thirty-nine of the Act of 1881 is hereby repealed.

8. Survivorship of trusts and powers.—(1) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or, where there were two or more trustees, then, of the last surviving or continuing trustee, shall be capable of exercising or performing any power or trust which was given to, or capable of being exercised by, the sole or last surviving or continuing trustee.

(2) This section shall take effect subject to any direction to the contrary expressed in the instrument, if any, creating the power or trust.

(3) This section applies only to trusts constituted after or created by instruments coming into operation after the commencement of the Act of 1881.

(4) In this section "personal representative" means an executor (original or by representation) or administrator, but does not include an executor who has renounced or has not proved.

(5) This section does not apply to land of

copyhold or customary tenure vested in the tenant on the court rolls on trust.

9. Provisions respecting mortgaged property where the right of redemption is barred.—(1) Where any property, vested in trustees by way of security, becomes, by virtue of the statutes of limitation, or of an order for foreclosure or otherwise, discharged from the right of redemption, it shall be held by them on trust for sale, with power to postpone such sale for such a period as they may think proper.

(2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this subsection shall operate without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.

(3) This section shall not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.

(4) Where the mortgage money is capital money for the purposes of the Settled Land Acts, 1882 to 1890, the trustees shall, if the tenant for life, or person having the powers of a tenant for life, so requires, instead of selling any land forming the whole or part of such property, make such conveyance or execute such declaration of trust of the same as may be required for giving effect to the directions contained in section twenty-four of the Settled Land Act, 1882 [45 & 46 Vict. c. 38 s. 24] (as amended by any subsequent enactment), and as if the land had been acquired by purchase, as mentioned in that section.

(5) This section applies to property, the right of redemption whereof is discharged before as well as after the commencement of this Act.

10. As to dispositions on trust for sale.—(1) Where a settlement within the meaning of section sixty-three of the Settled Land Act, 1882, or other settlement of property as personal estate, contains a power to invest money in the purchase of land, such land shall, unless the settlement otherwise provides, be held by the trustees on trust for sale, with power to postpone the sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied in like manner as the income of investments representing the purchase-money would be payable or applicable if a sale had been made and the proceeds had been duly invested in personal estate.

(2) Subsection (1) of this section applies only to settlements coming into operation after the commencement of this Act.

(3) Where land has, either before or after the commencement of this Act, become subject to an express or implied trust for sale, such trust is, so far as regards the safety and protection of any purchaser thereunder, to be deemed to be subsisting until the land has been conveyed to, or under, the direction of the persons interested in the proceeds of sale.

(4) Subsection (3) of this section applies to sales made before as well as after the commencement of this Act, but without prejudice to the order of any court restraining a sale.

11. Notice of restrictive covenants.—(1) Where land having a common title with other land is disposed of to a purchaser (other than a lessee or a mortgagee) who does not hold or obtain possession of the documents forming the common title, such purchaser, notwithstanding any stipulation to the contrary, may require that a memorandum, giving notice of any provision contained in the disposition to him restrictive of user of, or giving rights over, any other land comprised in the common title, shall, where practicable, be indorsed on, or, where impracticable, be permanently annexed to some one document selected by the purchaser, but retained in the possession or power of the person

who makes the disposition, and being or forming part of the common title.

(2) The title of any person omitting to require an indorsement to be made or a memorandum to be annexed shall not, by reason only of this enactment, be prejudiced or affected by the omission.

(3) This section does not apply to dispositions of land registered under the Land Transfer Acts, 1875 and 1897 [33 & 39 Vict. c. 87, 60 & 61 Vict. c. 65].

12. Power for proving executors to sell or transfer real estate.—(1) Where probate is granted to one or some of several persons named as executors, power being reserved to the others or other to prove, the sale, transfer, or disposition of real estate may, notwithstanding anything contained in subsection (2) of section two of the Land Transfer Act, 1897, be made by the proving executor or executors without the authority of the court, and shall be as effectual as if all the persons named as executors had concurred therein.

(2) This section applies to probates granted before as well as after the commencement of this Act, but only as respects dispositions made after the commencement of this Act.

13. Notice of trusts on transfer of mortgage.—(1) Where, on the transfer of a mortgage, the stamp duty, if payable according to the amount of the debt transferred, would exceed the sum of ten shillings, a purchaser shall not, by reason only of the transfer bearing a ten-shilling stamp, whether adjudicated or not, be deemed to have or to have had notice of any trust, or that the transfer was made for effectuating the appointment of a new trustee.

(2) This section applies to transfers made before as well as after the commencement of this Act.

14. Amendment of Section 42 of the Act of 1881.—The words "and being a woman is also unmarried" in subsection one of section forty-two of the Act of 1881 are hereby repealed.

15. Amendment of the Third Schedule to the Act of 1881.—The words "or for giving effect to special arrangements" are hereby substituted for the words "or other matter" at the foot of Part I. of the Third Schedule to the Act of 1881.

16. Short title, commencement, and construction.—(1) This Act may be cited as the Conveyancing Act, 1911.

(2) This Act shall come into operation on the first day of January, one thousand nine hundred and twelve.

(3) This Act and the Conveyancing Acts, 1881 to 1892, shall be construed together, and may be cited together as the Conveyancing Acts, 1881 to 1911.

(4) In this Act the Conveyancing and Law of Property Act, 1881 [44 & 45 Vict. c. 41], is referred to as the Act of 1881, and that Act may be cited as the Conveyancing Act, 1881.

CHAPTER 38.

[MONEY-LENDERS ACT, 1911.]

An Act to amend the Money-lenders Act, 1900.
[16th December 1911.]

Be it enacted, &c. :

1. Rights of bonâ fide holders for value, &c., under contracts with money-lenders.—(1) Notwithstanding anything in section two of the Money-lenders Act, 1900—

(a) any agreement with, or security taken by, a money-lender shall be, and shall be deemed always to have been, valid in favour of any bonâ fide assignee or holder for value without notice of any defect due to the operation of that section, and of any person deriving title under him; and

(b) any payment or transfer of money or property made bonâ fide by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect, shall,

in favour of that person, be, and be deemed always to have been, as valid as it would have been if the agreement or security had been valid;

but in either case the money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this enactment, and nothing in this enactment shall render valid an agreement or security in favour of an assignee or holder for value who is himself a money-lender.

(2) A person shall not be deemed to have had notice of a defect in an agreement or security by reason only that a search in the register established under the Money-lenders Act, 1900 [63 & 64 Vict., c. 51], would have disclosed the defect or shown that the agreement or security was effected with a money-lender; and, for the purposes of this Act and the Money-lenders Act, 1900, the provisions of section three of the Conveyancing Act, 1882 [45 & 46 Vict., c. 39], shall apply and be deemed always to have applied as if the expression "purchaser" included a person making any such payment or transfer as aforesaid.

(3) Nothing in this section shall render valid for any purpose any agreement, security, or other transaction which would, apart from section two of the Money-lenders Act, 1900, have been void or unenforceable, nor any agreement or security which has, before the commencement of this Act, been declared void by a court of competent jurisdiction.

2. Prohibition on money-lenders being registered as bankers.—(1) No person shall be registered as a money-lender under any name including the word "bank," or under any name implying that he carries on banking business; and, where any money-lender is registered under any such name, the name shall be removed from the register and a notification to that effect sent to the money-lender.

(2) If a money-lender, in the course of carrying on the money-lending business, issues or publishes, or causes to be issued or published, any circular, notice, advertisement, letter, account, or statement of any kind containing expressions which might reasonably be held to imply that he carries on banking business, he shall be liable on summary conviction to the like penalties as if he had failed to comply with section two of the Money-lenders Act, 1900.

3. Short title and construction.—This Act may be cited as the Money-lenders Act, 1911, and shall be construed as one with the Money-lenders Act, 1900, and that Act and this Act may be cited together as the Money-lenders Acts, 1900 and 1911.

CHAPTER 39.

[TELEGRAPH (CONSTRUCTION) ACT, 1911.]

An Act to facilitate the construction and maintenance of Telegraphic Lines.

[16th December 1911.]

[Empowers the Postmaster-General to place telegraphic lines across railways and canals, subject to the restrictions therein mentioned.]

CHAPTER 40.

[LUNACY ACT, 1911.]

An Act to provide for the appointment of two additional Commissioners in Lunacy and to transfer the power of making Vesting Orders from the Judge in Lunacy to the High Court.

[16th December 1911.]

Be it enacted, &c. :

1. Transfer of powers as to vesting orders from Judge in Lunacy to High Court.—The powers of the Judge in Lunacy under sections one hundred and thirty-five to one hundred and forty-three of the Lunacy Act, 1890 [53 & 54 Vict., c. 5], as amended by any subsequent enactment, to make such vesting and other orders as are in those sections mentioned shall except so far as they relate to lunatic mortgagees, not being also trustees, be transferred to, and, subject to rules of the Supreme Court,

be exercisable by, the High Court, and, except as aforesaid, those sections as so amended shall have effect accordingly as if for references to the Judge in Lunacy there were substituted references to the High Court.

2. Short title.—This Act may be cited as the Lunacy Act, 1911, and the Lunacy Acts, 1890 to 1908, and this Act may be cited together as the Lunacy Acts, 1890 to 1911.

3. Appointment of two additional Commissioners.—The number of paid Commissioners in Lunacy shall be increased by two, and for that purpose the Lord Chancellor may appoint two persons to be Commissioners in Lunacy, and the provisions of the Lunacy Act, 1890, with respect to the qualification of Commissioners shall apply to any Commissioner appointed under this section.

CHAPTER 41.

[MERCHANT SHIPPING (STEVEDORES AND TRIMMERS) ACT, 1911.]

An Act to enlarge the Remedies of Persons having claims for work done in connection with the stowing or discharging of ships' cargoes or the trimming of coal on board ships. [16th December 1911.]

Be it enacted, &c. :

1. Power to arrest ship on claim for work done in stowing cargo, &c.—(1) If it is claimed that any sum is due to any person from the owners of a ship for work done at any place in the United Kingdom by that person in connection with the stowing or discharging of cargoes on board or from that ship, or the trimming of coal on board that ship, and that ship is at any time found in any place in England or Ireland or within three miles of the coast thereof, a judge of any court of record in England or Ireland may, upon its being shown to him by any person applying in accordance with rules of court that *prima facie* the claim against the owners is a good claim, and that none of the owners reside in the United Kingdom, issue an order for the arrest of the ship.

(2) An order under this Act shall be directed to some officer of customs and excise, or some other officer named in the order, and shall require him to detain the ship until such time as satisfaction has been made by the owners, agent, master, or consignee thereof in respect of the claim, or until security, to be approved by the judge, has been given by them or him, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the claim, and to pay all costs and damages that may be awarded thereon, and where any such order is made, the officer to whom the order is directed shall detain the ship accordingly.

(3) In any legal proceedings in relation to any such claim as aforesaid, the person giving security shall be made defendant, and shall be stated to be the owner of the ship in respect of which the work giving rise to the claim was done, and the production of the order of the judge, made in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceedings.

(4) Where a complaint is made to the Board of Trade that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of England or Ireland or three miles from the coast thereof, the ship shall, if the Board so direct, be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention if made in accordance with the directions of the Board.

(5) Section six hundred and ninety-two of the Merchant Shipping Act, 1894 [57 & 58 Vict., c. 60], shall apply to the detention of a ship under this Act as it applies to the detention of a ship under that Act.

(6) If the owner of a ship is a corporation, the owner shall, for the purposes of this Act, be deemed to reside in the United Kingdom if the corporation has an office in the United Kingdom, at which service of writs can be effected.

2. Application of Act where a ship is demised to charterers.—Where a ship has been demised to charterers, the provisions of this Act shall apply to claims against the charterers of the ship as they apply to claims against the owners of a ship, with the substitution of charterers for owners :

Provided that no ship shall be detained on a claim against the charterers of the ship after the expiration of the term for which the ship was demised to them.

3. Proceedings in Admiralty.—Any person having a claim to which this Act applies may, if he so desires, instead of proceeding under the foregoing provisions of this Act, institute proceedings in Admiralty for enforcing the claim, and all courts having jurisdiction in Admiralty shall, if proceedings are so instituted, have the same jurisdiction for the purpose of enforcing the claim as if the claim were a claim for necessities supplied to the ship.

4. Saving.—Nothing in this Act shall affect the power of any person to enforce any claim to which this Act applies otherwise than in accordance with the provisions of this Act.

5. Short title.—This Act may be cited as the Merchant Shipping (Stevedores and Trimmers) Act, 1911.

CHAPTER 42.

[MERCHANT SHIPPING ACT, 1911.]

An Act to give jurisdiction under section seventy-six and Part VIII. of the Merchant Shipping Act, 1894, to certain British Courts in foreign countries. [16th December 1911.]

Be it enacted, &c. :

1. Extension of jurisdiction under s. 76 and Part VIII. of 57 & 58 Vict., c. 60 to certain British Courts in foreign countries.—(1) Among the courts before which a ship may be brought for adjudication under section seventy-six of the Merchant Shipping Act, 1894 (which relates to proceedings on forfeiture of a ship), there shall be included any British Court in a foreign country, being a court having Admiralty jurisdiction, as if such a court were included among the courts specified in that section, and that section shall be construed and have effect accordingly.

(2) Any such British Court shall also have jurisdiction to entertain any proceedings under Part VIII. of the Merchant Shipping Act, 1894, and accordingly section five hundred and four of that Act (which relates to the power of courts to consolidate claims against owners) shall be construed and have effect as if such a court were included among the courts to which an application under that section may be made.

(3) In this Act the expression "British Court in a foreign country" means any British Court having jurisdiction out of His Majesty's Dominions in pursuance of an Order in Council whether made under any Act or otherwise.

2. Short title and construction.—This Act may be cited as the Merchant Shipping Act, 1911, and shall be construed as one with the Merchant Shipping Act, 1894, and the Merchant Shipping Acts, 1894 to 1907, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1911.

CHAPTER 43.

[UNIVERSITY OF WALES (MEDICAL GRADUATES) ACT, 1911.]

An Act to extend the provisions of the Medical Acts to the University of Wales and to Graduates in Medicine and Surgery thereof. [16th December 1911.]

Be it enacted, &c. :

1. Short title.—This Act may be cited for all

purposes as the University of Wales (Medical Graduates) Act, 1911.

2. Construction.—This Act shall be construed as one with the Medical Act, 1886 [49 & 50 Vict., c. 48].

3. Power of the University of Wales to choose examinations under 49 & 50 Vict., c. 48.—(1) The University is hereby empowered to hold qualifying examinations in medicine, surgery, and midwifery for the purpose of granting a diploma or diplomas conferring the right of registration under the Medical Acts, and Part 1. of the Medical Act, 1886, shall be read and have effect as if the University had been a university in the United Kingdom legally qualified at the passing of that Act to grant diplomas in medicine and surgery.

(2) Notwithstanding anything in the supplemental charter granted to the University by his late Majesty King Edward the Seventh, dated the thirteenth day of August, in the sixth year of his reign, degrees conferred by the University in the faculty or faculties of medicine and surgery on persons who have passed such qualifying examinations shall be deemed to confer registrable qualifications under the Medical Acts.

4. Power of the University of Wales to choose a member of the Medical Council.—The General Council constituted by the Medical Acts shall include one person chosen from time to time by the University, and section seven of the Medical Act, 1886, shall be read and have effect as if the University had been expressly named therein as one of the bodies by whom persons to be included in the General Council aforesaid should be chosen. Provided always that the fees for attendance and the travelling expenses of such member, payable under section twelve of the Medical Act, 1886 [21 & 22 Vict., c. 90], shall not be paid from the funds of the said General Council or of the Branch Council for England mentioned in the Medical Acts until such time as upon the representation of the General Council or of the Privy Council made in the manner set forth in sections ten and nineteen of the Medical Act, 1886, and subject to the provisions therein contained, His Majesty may by Order in Council appoint.

CHAPTER 44.

[MILITARY MANŒUVRES ACT, 1911.]

An Act to amend the Military Manœuvres Act, 1897. [16th December 1911.]

Be it enacted, &c. :

1. Amendment of 60 & 61 Vict., c. 43, s. 1.—(1) Any area may, if the council of the county or borough in which it is situate consent, be included within the limits specified in any Order in Council made under section one of the Military Manœuvres Act, 1897 (hereinafter referred to as the principal Act), notwithstanding that the area has been specified in an Order in Council made under that section within the preceding five years : Provided that, in the case of any area situate in the New Forest, the consent of the Commissioners of His Majesty's Woods and of the Court of Verderers shall also be required.

(2) If an Order in Council is made under the said section, but no military manœuvres are executed thereunder, that section shall have effect as if no such Order had been made.

(3) Where the draft of an Order in Council under subsection (2) of the said section is sent to the authorities specified in that subsection before the thirty-first day of March in any year, the time which under that subsection must elapse before the Order comes into force shall be reduced from six to four months.

2. Amendment of 60 & 61 Vict., c. 43, s. 2.—(1) So much of proviso (1) to section two of the principal Act as provides that nothing in that Act shall authorise entry on or interference with any enclosed wood or plantation shall be repealed : Provided that nothing in this section shall be construed as authorising entry on, or interference with, any enclosed wood or plantation, unless that wood or plantation is included

amongst the authorised lands by the Military Manœuvres Commission.

(2) Nothing contained in the said proviso shall be construed as prohibiting the entry on or interference with any park, if that park is included amongst such authorised lands as aforesaid.

3. Amendment of 60 & 61 Vict. c. 43, s. 3.—The power of justices of the peace under section three of the principal Act by order to suspend any right of way, shall include a power by order to authorise any general or field officer in command of the authorised forces or any part thereof to make an order suspending for a time not exceeding six hours in any one day the use of any specified roads or footpaths, or parts of any specified roads or footpaths, within the specified limits and within the jurisdiction of the justices, and, where any such officer in exercise of the power so conferred on him makes such an order, he shall take such steps as in the circumstances he may consider practicable for giving publicity to his intention to make the order, but need not give such public notice as is required by subsection (2) of the said section, but all reasonable facilities for traffic shall be given whilst the order is in force.

4. Amendment of 60 & 61 Vict., c. 43, s. 7 (2).—Subsection (2) of section seven of the principal Act (which imposes penalties on certain illegal acts) shall have effect as if the following paragraph were therein inserted after paragraph (b):

“or
“(c) erects or displays any notice or mark on or relating to any authorised land or authorised source of water representing or implying that the use of such land or source is not authorised.”

5. Application of 60 & 61 Vict., c. 43 to Scotland.—In the application of the principal Act to Scotland, references to a county borough shall be construed as references to a royal, parliamentary, or police burgh having within its boundaries for police purposes a population according to the returns of the last published census for the time being of ten thousand or upwards, and the words “references to a county borough shall be construed as references to a royal burgh, parliamentary burgh, or burgh under the Burgh Police (Scotland) Act, 1892” (55 & 56 Vict., c. 55), in section eight of the principal Act are hereby repealed.

6. Short title.—This Act may be cited as the Military Manœuvres Act, 1911, and the principal Act and this Act may be cited together as the Military Manœuvres Acts, 1897 and 1911.

CHAPTER 45.

[PUBLIC ROADS (IRELAND) ACT, 1911.]

An Act to amend the Law in Ireland with respect to the use of Locomotives on Public Roads, and with respect to extraordinary Traffic. [16th December 1911.]

CHAPTER 46.

[COPYRIGHT ACT, 1911.]

An Act to amend and consolidate the Law relating to Copyright. [16th December 1911.]

Be it enacted, &c.:

PART I.

IMPERIAL COPYRIGHT.

Rights.

1. Copyright.—(1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

(a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid; and

(b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, “copyright” means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right,—

(a) to produce, reproduce, perform, or publish any translation of the work;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;

(d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. Infringement of Copyright.—(1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary;

(ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work;

(iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art;

(iv) The publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged;

(v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice

affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries:

(vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

(a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or

(b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(c) by way of trade exhibits in public; or

(d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. Term of copyright.—The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death:

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in a prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. Compulsory licences.—If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

5. Ownership of copyright, &c.—(1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that—

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other

person, and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and

- (b) where the author was in the employment of some other person under a contract of service or apprenticeship, and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom, or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright, or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent:

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work, or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6. Civil remedies for infringement of copyright.—(1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists, and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the

contrary is proved, be presumed to be the author of the work;

- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name, or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. Rights of owner against persons possessing or dealing with infringing copies, &c.—All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof, or in respect of the conversion thereof.

8. Exemption of innocent infringer from liability to pay damages, &c.—Where proceedings are taken in respect of the infringement of the copyright in any work, and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had no reasonable ground for suspecting, that copyright subsisted in the work.

9. Restriction on remedies in the case of architecture.—(1) Where the construction of a building or other structure which infringes, or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure, or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. Limitation of actions.—An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

Summary Remedies.

11. Penalties for dealing with infringing copies, &c.—(1) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
(b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
(c) distributes infringing copies of any such work either for the purposes of trade, or to such an extent as to affect prejudicially the owner of the copyright; or
(d) by way of trade exhibits in public any infringing copy of any such work; or
(e) imports for sale or hire into the United Kingdom any infringing copy of any such work:

he shall be guilty of an offence under this Act, and be liable on summary conviction to a fine not exceeding forty shillings for every copy dealt with in contravention of this section, but not exceeding fifty pounds in respect of the same transaction; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2) If any person knowingly makes, or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his

private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be guilty of an offence under this Act, and be liable on summary conviction to a fine not exceeding fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the court may think fit.

(4) Nothing in this section shall, as respects musical works, affect the provisions of the Musical (Summary Proceedings) Copyright Act, 1902 [2 Edw. 7, c. 15], or the Musical Copyright Act, 1906 [6 Edw. 7, c. 36].

12. Appeals to quarter sessions.—Any person aggrieved by a summary conviction of an offence under the foregoing provisions of this Act may in England and Ireland appeal to a court of quarter sessions, and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts.

13. Extent of provisions as to summary remedies.—The provisions of this Act with respect to summary remedies shall extend only to the United Kingdom.

Importation of Copies.

14. Importation of copies.—(1) Copies made out of the United Kingdom of any work in which copyright subsists which, if made in the United Kingdom, would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876 [39 & 40 Vict., c. 36], and that section shall apply accordingly.

(2) Before detaining any such copies, or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works, the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the

United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to Libraries.

15. Delivery of copies to British Museum and other libraries.—(1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depôt in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries—namely, the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopedia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable, on summary conviction, to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letterpress, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to Certain Works.

16. Works of joint authors.—(1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies, and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first, or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint

authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors, in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work, the interest of such married woman therein shall be her separate property.

17. Posthumous works.—(1) In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author, and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be prima-facie proof of the copyright being with the owner of the manuscript.

18. Provisions as to Government publications.—Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government Department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

19. Provisions as to mechanical instruments.—(1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

(a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such con-

trivances sold by him, calculated at the rate hereinafter mentioned:

Provided that—

- (i) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and
 - (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall—
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
 - (b) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a halfpenny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only, and shall not have any effect unless and until confirmed by Parliament; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists, and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance, or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions:—

(a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply:

- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten :
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :
- (d) The saving containing in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section :
- (e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.
- (8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner, and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived :
- Provided that—
- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

20. Provision as to political speeches.]—Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

21. Provisions as to photographs.]—The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

22. Provisions as to designs registrable under

7 Edw. 7, c. 29.]—(1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907 [7 Edw. 7, c. 29], except designs, which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

(2) General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.]—If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

24. Existing works.]—(1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made, and the work had been one entitled to copyright thereunder :

Provided that—

- (a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine ; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

(i) on giving such notice as herein-after mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration ; or

(ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work, and the owner of the right or interest is the proprietor of that collective work, without any such payment ;

The notice above referred to must be given not more than one year, nor less than six months, before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he

cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers :

- (b) where any person has, before the twenty-sixth day of July, nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen, sub-sections (7) and (8), and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

Application to British Possessions.

25. Application of Act to British dominions.]—

(1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions : Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion, or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends ; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. Legislative powers of self-governing dominions.]—(1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion : Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. Power of Legislatures of British possessions to pass supplemental legislation.—The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. Application to protectorates.—His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

PART II.

INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works.—

(1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were British subjects;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign

country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I. of this Act;

- (ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order;
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order;
- (v) in applying the provision of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country;
- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886 [49 & 50 Vict. c. 33].

(2) An Order in Council under this section may extend to all the several countries named or described therein.

30. Application of Part II. to British possessions.—(1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any order any part of his dominions not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.—No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32. Provisions as to Orders in Council.—(1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in

Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Saving of university copyright.—Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775 [15 Geo. 3, c. 53], of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act, and not under that Act.

34. Saving of compensation to certain libraries.—There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books:

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. Interpretation.—(1) In this Act, unless the context otherwise requires—

"Literary work" includes maps, charts, plans, tables, and compilations;

"Dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"Artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"Work of sculpture" includes casts and models;

"Architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction;

"Engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

"Photograph" includes photo-lithograph and any work produced by any process analogous to photography.

"Cinematograph" includes any work produced by any process analogous to cinematography;

"Collective work" means—

(a) an encyclopaedia, dictionary, year book, or similar work;

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"Infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act;

"Performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"Delivery," in relation to a lecture, includes delivery by means of any mechanical instrument;

"Plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

"Lecture" includes address, speech, and sermon;

"Self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Repeal.—Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. Short title and commencement.—(1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) in the United Kingdom, on the first day of July, nineteen hundred and twelve, or such earlier date as may be fixed by Order in Council;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES. FIRST SCHEDULE. EXISTING RIGHTS. [Section 24.]

Existing Right.	Substituted Right.
(a) <i>In the case of Works other than Dramatic and Musical Works.</i>	
Copyright.	Copyright as defined by this Act.*
(b) <i>In the case of Musical and Dramatic Works.</i>	
Both copyright and performing right.	Copyright as defined by this Act.*
Copyright, but not performing right.	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright.	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings:—

"Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date, and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work;

"Performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE. ENACTMENTS REPEALED. [Section 26.]

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2, c. 13	The Engraving Copyright Act, 1734	The whole Act
7 Geo. 3, c. 38	The Engraving Copyright Act, 1767	The whole Act
15 Geo. 3, c. 53	The Copyright Act, 1775	The whole Act
17 Geo. 3, c. 57	The Prints Copyright Act, 1777	The whole Act
54 Geo. 3, c. 56	The Sculpture Copyright Act, 1814	The whole Act
3 & 4 Will. 4, c. 15	The Dramatic Copyright Act, 1833	The whole Act
5 & 6 Will. 4, c. 65	The Lectures Copyright Act, 1835	The whole Act
6 & 7 Will. 4, c. 59	The Prints and Engravings Copyright (Ireland) Act, 1836	The whole Act

* In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

Session and Chapter.	Short Title.	Extent of Repeal.
6 & 7 Will. 4, c. 110	The Copyright Act, 1836	The whole Act
5 & 6 Vict. c. 45	The Copyright Act, 1842	The whole Act
7 & 8 Vict. c. 12	The International Copyright Act, 1844	The whole Act
10 & 11 Vict. c. 95	The Colonial Copyright Act, 1847	The whole Act
15 & 16 Vict. c. 12	The International Copyright Act, 1852	The whole Act
25 & 26 Vict. c. 68	The Fine Arts Copyright Act, 1862	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict. c. 12	The International Copyright Act, 1875	The whole Act
39 & 40 Vict. c. 36	The Customs Consolidation Act, 1876	Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.
45 & 46 Vict. c. 40	The Copyright (Musical Compositions) Act, 1882	The whole Act
49 & 50 Vict. c. 33	The International Copyright Act, 1886	The whole Act
51 & 52 Vict. c. 17	The Copyright (Musical Compositions) Act, 1888	The whole Act
52 & 53 Vict. c. 42	The Revenue Act, 1889	Section one, from "Books first published" to "as provided in that section."
6 Edw. 7, c. 36	The Musical Copyright Act, 1906	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

CHAPTER 47.

[NAVAL DISCIPLINE (DOMINION NAVAL FORCES) ACT, 1911.]

An Act to declare the effect of the Naval Discipline Acts when applied by the legislatures of self-governing Dominions to the Naval Forces raised by such Dominions.

[16th December 1911.]

CHAPTER 48.

[FINANCE ACT, 1911.]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make other provisions for the financial arrangements of the year.

[16th December 1911.]

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, &c.

PART I.

CUSTOMS AND EXCISE.

1. Duty on tea.—The duty of Customs payable on tea until the first day of July nineteen hundred and eleven, under the Finance Act, 1910 [10 Edw. 7 & 1 Geo. 5, c. 35], shall be deemed to have been continued as from that date and shall continue to be charged, levied, and paid until the first day of July nineteen hundred and twelve, on the importation thereof into Great Britain or Ireland (that is to say):—

Tea, the pound - - - fivepence

2. Alterations of cocoa duty.—(1) The duty of Customs of twopence per pound on cocoa or chocolate ground, prepared, or in any way manufactured, imposed by section three of the Customs and Inland Revenue Act, 1879 [42 & 43 Vict. c. 21], shall cease; but nothing in this section shall affect the power to charge duty under section seven of the Finance Act, 1901 [1 Edw. 7, c. 7].

(2) Drawback shall be allowed on the exportation or shipment for use as ships' stores of any goods in the manufacture or preparation of which in Great Britain or Ireland any cocoa, or cocoa butter, or cocoa husks and shells, has or have been used, equal to the duty in respect of the quantity of that cocoa, or cocoa butter, or cocoa husks and shells, as the case may be, which appears, to the satisfaction of the Treasury, to have been used in the manufacture or preparation of the goods; and, in allowing that drawback, the Commissioners of Customs and Excise may, with the assent of the Treasury, in order to facilitate trade, relax in the case of any goods any requirements of sections one hundred and four and one hundred and six of the Customs Consolidation Act, 1876 [39 & 40 Vict. c. 36], as to the giving of security and the examination of goods.

3. Provision as to goods removed to be re-warehoused.—Section nine of the Finance Act, 1900 [63 & 64 Vict. c. 7], shall apply in cases where goods or commodities subject to any duty of Customs or Excise are delivered out of a warehouse for removal under bond to be re-warehoused, and the duty is paid on the goods or commodities without their being re-warehoused, with the substitution of the date on which duty is paid for the date of the actual removal from the warehouse.

4. Definition of premises for the purpose of the valuation of licensed premises.—The following definition shall be substituted, as from the first day of April nineteen hundred and eleven, for the definition of premises contained in section fifty-two of the Finance (1909-10) Act, 1910 [10 Edw. 7, c. 8]:—

The expression "premises" in relation to the annual value of licensed premises includes any offices, courts, yards, and gardens which are occupied together with and are within the curtilage, or in the immediate vicinity, of the house or place where the liquor is sold, except any such offices, courts, yards, or gardens as are proved to the satisfaction of the Commissioners to be used either altogether, or with occasional exceptions only, for any trade or business which is entirely distinct from the trade or business carried on in the house or place by the licence holder as such, and also includes any building or place which, though not within the curtilage, or in the immediate vicinity, of the house or place where the liquor is sold, is used by the licence holder for receiving or storing liquor, or which, in the opinion of the Commis-

sioners, is used by him, otherwise than occasionally, for any purpose in connection with the sale of liquor.

5. Provision as to minimum duty not to apply to licensed premises situate in outlying parts of urban districts.—Where it is shown to the satisfaction of the Commissioners of Customs and Excise that any premises situated in an urban area are situated in a part of the area which has only a small local population and is essentially rural in character, and that the more populous parts of the district are so remote as not to affect the amount of business carried on upon the premises, the premises shall, for the purposes of Scale 3 in the First Schedule to the Finance (1909-10) Act, 1910 (which prescribes a minimum duty for publicans' and beerhouse licences), be deemed to be situate in an area which is not an urban area:

Provided that any premises in respect of which an abatement of duty is allowed under this section, shall in England and Wales for the purpose of the Sixth Schedule to the Licensing (Consolidation) Act, 1910 [10 Edw. 7, & 1 Geo. 5, c. 24] (which prescribes general closing hours), be deemed to be premises situate not in a town or populous place; and in Ireland for the purpose of section seventy-eight of the Licensing Act, 1872 [35 & 36 Vict. c. 94], to be premises not situate in a city or town.

6. Provision for payment of licence duty in two instalments.—(1) Where the duty payable by any person under Part II. of the Finance (1909-10) Act, 1910, on any licence for the manufacture or sale of intoxicating liquor amounts to the sum of twenty pounds or upwards, the licence may, at the option of the licence holder, be granted upon payment of one-half only of the duty so payable, and in that case the other half of the duty shall be paid immediately after the expiration of six months from the commencement of the year for which the licence was granted, or, in case the licence is granted after the month of September, on the first day of February next ensuing, and, if default is made in payment of the second half of the duty, the licence shall be deemed to be of no effect so long as the default continues.

This provision shall apply to two or more licences granted in respect of one set of premises as it applies to a single licence.

(2) Any amount remaining unpaid in any case in respect of the second half of the duty may be recovered either as a debt due to the Crown or by distress on the licensed premises in the same manner as unpaid duty payable in respect of purchases of intoxicating liquor in a club may be recovered by distress on the club premises, and subsection (3) of section forty-eight of the Finance (1909-10) Act, 1910, shall, so far as applicable, apply accordingly with the substitution of the licensed premises for the club, and of the holder of the licence for the secretary of the club.

(3) The power of recovering the second half of duty under this section shall apply to the recovery of the unpaid portion of duty in cases where a licence for the manufacture or sale of intoxicating liquor has been granted before the passing of this Act on payment of a portion of the duty only, except that in cases where the licence has been so granted under subsection (3) of section forty-nine of the Finance (1909-10) Act, 1910, and is now in force, the first day of March next after the commencement of the year for which the licence was granted shall be substituted for the first day of February next ensuing.

7. Repayment of proportional part of duty where justices' licence expires before Excise licence.—Where an Excise licence ceases to be in force owing to the fact that the justices' licence or certificate in pursuance of which it was granted has expired and has not been renewed, there shall be repaid to the holder of the Excise licence such sum as bears to the full amount of the duty the same proportion as the unexpired period of the licence bears to a whole year, unless there has been such a conviction against the licence holder as is mentioned in section twenty-two of the Excise Licences Act, 1825 [6 Geo. 4, c. 81].

8. Licences for new beginners.—In the case of licences for the sale of intoxicating liquor granted to a new beginner, the proportional part

of the duty upon payment of which the licence may be granted shall be such sum as bears to the full amount of the duty the same proportion as the period for which the licence will be in force bears to a whole year.

9. Licences for sale of spirits for medical purposes, &c.—(1) Any manufacturing or wholesale chemist and druggist who requires a licence for the purposes only of selling rectified spirits of not less than forty-three degrees above proof, for medicinal purposes, to duly qualified medical practitioners or duly registered pharmaceutical chemist or chemists and druggists, or persons requiring the spirits for use for scientific purposes in any laboratory, and undertakes not to sell spirits otherwise than for those purposes and to those persons, may obtain a licence on payment of a reduced duty of ten pounds.

(2) The Commissioners of Customs and Excise may attach such conditions to any licence granted on payment of a reduced duty under this section as they think expedient for the protection of the revenue.

(3) If any person holding a licence granted on payment of a reduced duty under this section sells spirits in any manner contrary to his undertaking, or to the conditions attached to his licence, he shall be liable in respect of each offence to an Excise penalty of fifty pounds.

10. Restrictions on the use of British wines for blending purposes.—The Commissioners of Customs and Excise may make regulations prohibiting or restricting the mixture for sale of any British wines with any foreign wine or with any description of spirits, or the sale or exposure for sale of any such mixture, and requiring every manufacturer for sale of British wines to enter in the book obtained by him from the officer of Customs and Excise such particulars as may be prescribed by them in reference to all British wines made and sent out by him, and, if any person acts in contravention or fails to comply with any of these regulations, the article in respect of which the offence is committed shall be forfeited, and the person committing the offence shall be liable in respect of each offence to an Excise penalty of fifty pounds.

11. Exemption of motor cars used for fire brigade purposes from duty on licences for motor cars.—Subsection (6) of section eighty-six of the Finance (1909-10) Act, 1910, shall be construed as if the words "or any motor car used by any local authority for fire brigade purposes" were added at the end thereof.

12. Exemption from motor fire engines, &c., in respect of the duty on motor spirit.—Any local authority using motor spirit for the purpose of supplying motive power to any motor fire engine provided by them, or to any motor car kept by them while it is being used by them for the purposes of their fire brigade service, shall be entitled to an allowance or repayment of the duty paid in respect of the motor spirit in the same manner as persons using motor spirit for purposes other than the supply of motive power for motor cars.

PART II.

STAMPS.

13. Reduction of duty on certain marketable securities.—(1) The stamp duty charged on marketable securities transferable by delivery (not being Colonial Government securities) shall, when the amount secured by the security is to be paid off within a term not exceeding three years after the date on which the duty is payable and the date by which the amount is to be paid off is conspicuously stated on the face of the security, be reduced to threepence for every ten pounds or fractional part of ten pounds of the money secured, if that money is to be paid off within a term not exceeding one year from the date on which the duty is payable, and sixpence for every ten pounds or fractional part of ten pounds of the money secured, if that money is to be paid off within a term exceeding one year but not exceeding three years from the date on which the duty is payable.

(2) If any marketable security on which stamp duty has been charged in accordance with this section is assigned, transferred, or in any manner negotiated in the United Kingdom after the date stated on the face of the security as the date by

which the amount secured is to be paid off, stamp duty shall be charged thereon at the full rate of duty, an allowance being made for the duty already paid, and, if any person in the United Kingdom after the said date assigns, transfers, or in any manner negotiates, or is concerned as broker or agent in assigning, transferring, or in any manner negotiating any such security and the security is not stamped in accordance with this provision, that person shall incur a fine of twenty pounds.

(3) Paragraph (4) under the heading MARKETABLE SECURITY in the First Schedule to the Stamp Act, 1891 [54 & 55 Vict. c. 39] (which provides a reduced duty in the case of marketable securities given in substitution for like securities duly stamped), shall not apply in the case of marketable securities given in substitution for marketable securities which have been stamped only with the reduced duty under this section.

PART III.

INCOME TAX AND INHABITED HOUSE DUTY.

14. Income tax for 1911-12.—(1) Income tax for the year beginning on the sixth day of April nineteen hundred and eleven shall be charged at the rate of one shilling and twopence, and the same super-tax shall be charged, levied, and paid for that year as was charged for the year beginning on the sixth day of April nineteen hundred and ten.

(2) All such enactments relating to income tax (including super-tax) as were in force with respect to duties of income tax granted for the year beginning on the sixth day of April nineteen hundred and ten shall have full force and effect with respect to any duties of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A and B in the Income Tax Act, 1853 [16 & 17 Vict. c. 34], or of inhabited house duty, during the year ending on the fifth day of April nineteen hundred and eleven, shall be taken as the annual value of such property for the same purpose during the next subsequent year; provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and

(b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 & 33 Vict. c. 67].

15. Inhabited house duty in case of premises in hands of caretakers.—The fact that the husband or wife of a caretaker, or other member of the family of a caretaker, or the servant of a caretaker, dwells in any house or tenement together with the caretaker shall not be of itself sufficient to deprive the house or tenement of the benefit of any exemption under Schedule B, case 5, of the House Tax Act, 1808 [48 Geo. 3. c. 55], or subsection (2) of section thirteen of the Customs and Inland Revenue Act, 1878 [41 & 42 Vict. c. 15].

PART IV.

NATIONAL DEBT.

16. Partial application of surplus for development fund and sanatoria and loan to East Africa Protectorate.—(1) The old sinking fund for the financial year ending the thirty-first day of March nineteen hundred and eleven, as calculated under section nineteen of the Revenue Act, 1911, shall, notwithstanding anything in the Sinking Fund Act, 1875 [38 & 39 Vict. c. 45]—

(a) to the extent of one million five hundred thousand pounds, be issued and paid by the Treasury at such times as they direct to the development fund under the Development and Road Improvement Funds Act, 1909 [9 Edw. 7. c. 47], in lieu of the sums to be issued out of the consolidated fund under subsection (2) of section two of that Act in the years ending the thirty-first day of March nineteen hundred and thirteen, nineteen hundred and fourteen, and nineteen hundred and fifteen respectively; and

(b) to the extent of one million five hundred thousand pounds, be issued by the

Treasury at such times as they direct, and carried by the Treasury to a separate account, and made available in such manner as Parliament may determine for the purposes of the provision of, or making grants in aid to, sanatoria and other institutions for the treatment of tuberculosis, or such other diseases as the Local Government Board, or as respects Scotland the Local Government Board for Scotland, or as respects Ireland the Local Government Board for Ireland, with the approval of the Treasury, may appoint; and

(c) to the extent of two hundred and fifty thousand pounds, shall be issued by the Treasury at such times as they may direct for the purpose of the advance authorised by this Act to the Government of the East Africa Protectorate.

(2) The Treasury may advance by way of loan to the Government of the East Africa Protectorate for the purpose of providing improved railway communication and harbours in the Protectorate, and improved water supply for Mombasa any sums not exceeding in the whole two hundred and fifty thousand pounds.

The Government of the Protectorate shall annually, until the whole advance is deemed to have been repaid, pay to the Treasury interest at the rate of three and a half per cent. on the amount advanced, and also, by way of sinking fund, a further sum equal to one per cent. on the amount advanced, and the whole of the advance shall be deemed to have been repaid when sinking fund payments have been made sufficient, if accumulated at three and a half per cent. with yearly rests, to produce an amount equal to the advance.

Any sums paid on account of the principal or interest of the advance shall be paid into the Exchequer, and issued to the National Debt Commissioners, and shall be applied by them in like manner as the old sinking fund.

17. Transfer of Government stock by deed.—(1) Notwithstanding anything in section twenty-two of the National Debt Act, 1870, [33 & 34 Vict. c. 71], any stock belonging to a stockholder shall, if registered for the time being as stock transferable by deed in manner provided by regulations made under this section, be transferable by deed instead of in the manner provided by that section.

The Banks of England and Ireland respectively, with the concurrence of the Treasury, shall provide by regulations for a separate stock register being kept for stock which is for the time being transferable by deed, for the conditions upon which stock is to be entered in or removed from that register, for the mode in which the transfer by deed is to be carried out, and for the payment of any fees in respect of the entry or removal of stock from the register and the carrying out of any transfer of stock by deed.

The provisions of the National Debt Act, 1870, and any Act amending the same, shall apply to stock transferable by deed in pursuance of this section as they apply to stock transferable in the books of the Banks of England or Ireland, except so far as express provision is made to the contrary by this section or by the regulations made thereunder.

(2) No stamp duty shall be payable in respect of any deed of transfer of the stock.

(3) In this section the expression "stock" means any stock which is for the time being transferable in the books of the Banks of England and Ireland under the National Debt Act, 1870.

PART V.

DEATH DUTIES.

18. Valuation of cottages for purposes of estate duty.—It is hereby declared that, in estimating for the purposes of subsection (5) of section seven of the Finance Act, 1894 [57 & 58 Vict. c. 30], the principal value of any agricultural property which comprises cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottage is suitable for the residential purposes of any persons

other than agricultural labourers or workmen on the estate.

19. Amendment of 10 Edw. 7, c. 8, s. 61 (5).—Subsection (5) of section sixty-one of the Finance (1909-10) Act, 1910 (which relates to duty in respect of timber, trees, or wood), shall have effect, and shall be deemed always to have had effect as if the words "on or after the thirtieth day of April nineteen hundred and nine" were substituted for the words "after the passing of this Act."

PART VI.

GENERAL.

20. Provision for enabling the Post Office to exercise powers in relation to stamps, &c.—His Majesty may, by Order in Council, provide that any powers and duties of the Commissioners of Inland Revenue, whether statutory or otherwise, with reference to any stamps used to denote duties of postage, or any stamps used to denote other duties, being either adhesive stamps or stamps which are usually sold or distributed at a post office, or with reference to any postal orders, licences, or forms usually so sold or distributed shall be exercised and performed by the Postmaster-General, either to the exclusion of the Commissioners of Inland Revenue or concurrently with those Commissioners, and any such order shall have effect as if enacted in this Act.

Such provisions may be made by the order as appear necessary or expedient to give full effect to the exercise and performance of the powers and duties to which the order relates in manner provided by the order.

21. Amendment of schedule to Revenue Act, 1911.—The Revenue Act, 1911 [1 Geo. 5, c. 2], shall be read as if section ninety-one of the Finance (1909-10) Act, 1910, were not included in the schedule of enactments repealed.

22. Repeal, construction, and short title.—(1) The enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

(2) Part I. of this Act, so far as it relates to duties of Customs, shall be construed together with the Customs Consolidation Act, 1876 [39 & 40 Vict. c. 36], and the Acts amending that Act, and so far as it relates to duties of Excise shall be construed together with the Acts which relate to duties of Excise and the management of those duties.

Part II. of this Act shall be construed together with the Stamp Act, 1891.

Part III. of this Act shall be construed together with the Income Tax Acts, 1842 and 1853 [5 & 6 Vict. c. 35; 16 & 17 Vict. c. 34], and any other enactments relating to income tax.

(3) This Act may be cited as the Finance Act, 1911.

SCHEDULE.

[Section 22.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
6 Geo. 4, c. 81	The Excise Licences Act, 1825.	Section twenty-four.
42 & 43 Vict. c. 21.	The Customs and Inland Revenue Act, 1879.	Section three.
9 Edw. 7, c. 47	The Development and Road Improvement Funds Act, 1909.	Subsection (2) of section two, as from the thirty-first day of March nineteen hundred and twelve.
10 Edw. 7. c. 8.	The Finance (1909-10) Act, 1910.	Subsection (3) of section forty-nine and in section fifty-two the definition of "premises."

CHAPTER 49.

[SMALL LANDHOLDERS (SCOTLAND) ACT, 1911.]

An Act to encourage the formation of Small Agricultural Holdings in Scotland, and to amend the Law relating to the Tenure of such Holdings (including Crofters' Holdings); to establish a Board of Agriculture for Scotland; and for other purposes connected therewith. [16th December 1911.]

CHAPTER 50.

[COAL MINES ACT, 1911.]

An Act to consolidate and amend the Law relating to Coal Mines and certain other mines. [16th December 1911.]

Be it enacted, &c.:

APPLICATION OF ACT.

1. *Application of Act.*—The mines to which this Act applies are mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay; and in this Act the expression "mine," unless the context otherwise requires, means a mine to which this Act applies.

PART I.

MANAGEMENT.

Managers.

2. *Appointment of manager of mine.*—(1) Every mine shall be under one manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person to be the manager of such mine.

(2) If any mine is worked without there being such a manager for the mine as is required by this section, the owner and agent shall each be guilty of an offence against this Act:

Provided that, if the person appointed to be manager of a mine, by reason of death, resignation, or otherwise, ceases to be manager, nothing in this section shall prevent the mine being worked (for a period not exceeding four months) until a new manager is appointed, if in the meantime a competent person holding a first-class or second-class certificate of competency under this Act is temporarily appointed to perform the duties and exercise the powers of manager.

(3) A small mine shall be exempt from the provisions of this section, unless the inspector of the division, by notice in writing served on the owner or agent of the mine, requires that it be under the control of a manager, and in any mine so exempt in which a manager has not been appointed the powers and duties conferred or imposed on the manager shall be exercised and performed by the owner or agent, and anything by or under this Act required to be done by or to the manager shall be done by or to the owner or agent.

(4) The owner or agent of a mine required to be under the control of a manager shall not take any part in the technical management of the mine unless he is qualified to be a manager.

(5) For the purpose of this section, workings having a common system of ventilation or any part of a system of ventilation in common shall be deemed to form part of the same mine.

3. *Daily supervision of mine by manager or under manager.*—(1) In every mine required to be under the control of a manager, daily personal supervision shall be exercised by the manager, and, where an under-manager has been appointed by the owner or agent of the mine, also by that under-manager.

(2) In cases where, on account of the absence of the manager or under-manager on leave or from sickness or any other temporary cause, such daily personal supervision as is required by this section cannot be exercised, arrangements shall be made for the duties of the manager or under manager, as the case may be, in respect of daily personal supervision being performed—

(a) in the absence of the manager, by the under-manager, if any, or by a person not under the age of twenty-five years and holding a first or second-class certificate of competency under this Act, appointed in writing by the owner or agent;

(b) in the absence of the under-manager, in the case of a mine for which a separate under-manager is required by this Act to be appointed, by a person not under the age of twenty-five years and holding a first or second-class certificate of competency under this Act appointed as aforesaid:—

And any person performing the duties of a manager or under-manager whether under this or under the last preceding section, shall have the same responsibility, and shall be subject to the same liability, as the person whose duties he is performing.

(3) If in any mine there is a contravention of or non-compliance with the provisions of this section, the mine shall be deemed to be not managed in conformity with this Act.

4. *Limitation of number of mines for which manager may act.*—(1) After the first day of January, nineteen hundred and thirteen, no person who is the manager of a mine shall, without the approval of the inspector of the division, be the manager of any other mine required to be under the control of a manager, if the aggregate number of persons employed underground in the mine of which he is manager and that other mine exceeds one thousand, or if all the shafts or adits for the time being in use in working the mine of which he is manager and that other mine do not lie within a circle having a radius not exceeding two miles.

(2) Where any person is appointed to be the manager of two or more mines required to be under the control of a manager, a separate under-manager shall be appointed for each mine.

(3) If it appears to the Secretary of State that the personal supervision and control exercised by the manager of any mine are insufficient, by reason of the person who is manager of that mine being also manager of any one or more other mines, the Secretary of State may by order limit the number of such mines for which a person may act as manager.

If the owner, agent, or manager of the mine disputes the reasonableness of the order, the matter shall be settled in manner provided by this Act for settling disputes.

(4) If any person acts in contravention of any such order, or connives at any such contravention, he shall be guilty of an offence against this Act.

5. *Qualifications of managers and under-managers.*—(1) A person shall not be qualified to be appointed or to be manager of a mine required to be under the control of a manager, unless he is at least twenty-five years of age and is for the time being registered as the holder of a first-class certificate of competency under this Act.

(2) A person shall not be qualified to be appointed or to be an under-manager of a mine, or manager of a mine which is not required to be under the control of a manager, unless he is for the time being registered as the holder of a first-class or a second-class certificate of competency under this Act.

6. *Notification of name and address of manager, &c.*—On the appointment in pursuance of this Act of a person to be manager or under-manager of a mine, or to perform temporarily the duties of manager or under-manager, the owner or agent shall send to the inspector of the division notice of the name and address of that person and the number and class of the certificate held by him, and, if he fails to do so, he shall be guilty of an offence under this Act.

Certificates of Competency.

7. *Description of certificates of competency.*—There shall be two descriptions of certificates of competency under this Act (that is to say)—

- (1) first-class certificates;
- (2) second-class certificates.

8. *Constitution of Board for Mining Examinations.*—(1) For the purpose of ascertaining the fitness of applicants for certificates of competency under this Act, a Board, to be styled "The Board for Mining Examinations," shall be

constituted by the Secretary of State, consisting of—

- (a) six representatives of owners or agents of mines or managers of mines or mining engineers;
- (b) six representatives of workmen employed in mines;
- (c) the chief inspector and two divisional inspectors of mines; and
- (d) two persons eminent in mining and scientific knowledge.

The members of the Board shall be appointed and may be removed by the Secretary of State, and shall hold office during his pleasure.

(2) The procedure of the Board shall be in accordance with rules made by the Board subject to the approval of the Secretary of State.

(3) The Board shall, at such intervals as the Secretary of State may determine, make to him a report of their proceedings and of such other matters as he may require.

9. *Examinations for certificates.*—(1) The Board for Mining Examinations shall hold examinations at such times and in such places as may be fixed by the Board subject to the approval of the Secretary of State.

(2) The Board may, subject to the approval of the Secretary of State, make rules for the conduct of the examinations and the qualifications of applicants for certificates of competency under this Act, and the rules shall amongst other things provide—

(a) that the examination and qualifications of applicants for second-class certificates shall be suitable for practical working miners; and

(b) that no person shall be qualified to be an applicant for a certificate unless he—

(i.) is twenty-three years of age or upwards; and

(ii.) has had such practical experience in mining (either in the United Kingdom or partly in the United Kingdom and partly elsewhere) as may be required by the rules for a period of not less than five years, or (in the case of an applicant who has received an approved diploma, or has taken an approved degree) of not less than three years; and

(iii.) has given satisfactory evidence of his sobriety, experience, and general good conduct; and

(c) for the holding, as a part of the examination, of *viva voce* examinations in different localities with a view to the practical knowledge of applicants for certificates in each locality being tested with reference to the local mining conditions, and for requiring at least one of the examiners in every *viva voce* examination to be a person possessing practical acquaintance with those conditions.

(3) The Board may, subject to the consent of the Secretary of State as to number, appoint, remove, and reappoint examiners to conduct examinations.

(4) A person acting as examiner shall not take any part in the examination of the papers, or in the *viva voce* examination, of any applicant for a certificate whom he has in any way trained or instructed in any of the subjects of the examination.

(5) The remuneration to be paid to the examiners and the fees to be paid by applicants for certificates shall be such as the Secretary of State, with the consent of the Treasury, may determine.

(6) For the purposes of this section, "approved diploma" means a diploma in scientific and mining training after a course of study of at least two years at an institution approved by the Secretary of State, and "approved degree" means a degree of any University approved by the Secretary of State which involves training in and knowledge of scientific and mining subjects; and the approval of the Secretary of State may be given subject to such conditions as he may think fit, and may be revoked by him at any time.

10. *Grant of certificates.*—(1) The Secretary of State shall deliver to every applicant who is duly reported by the Board for Mining Examinations

to have passed the examination satisfactorily such a certificate of competency as the case requires.

(2) The Secretary of State may deliver such a certificate without examination to an applicant who is the holder of a certificate granted in any British possession or foreign country, if the Board report that the standard of training and examination required for the grant of such a certificate is equivalent to that required for the grant of a corresponding certificate under this Act.

(3) A register of the holders of certificates shall be kept by such person and in such manner as the Secretary of State directs.

11. Inquiry into competency of holders of certificates.—(1) If at any time representation is made to the Secretary of State by an inspector or otherwise that any person holding a certificate of competency under this Act is, by reason of incompetency or gross negligence or misconduct in the capacity of, or while temporarily performing the duties of, manager or under-manager of a mine, unfit to continue to hold a certificate of competency, or has been convicted of an offence against this Act or any enactment repealed by this Act, the Secretary of State may, if he thinks fit, cause inquiry to be made into the conduct of that person, and with respect to every such inquiry, the following provisions shall have effect:—

(a) The inquiry shall be public, and shall be held at such place as the Secretary of State may appoint, by such county court judge, metropolitan police magistrate, stipendiary magistrate, or other person or persons (hereinafter in this section referred to as the court) as may be directed by the Secretary of State, and either alone or with the assistance of any assessor or assessors named by the Secretary of State:

(b) The Secretary of State shall, before the commencement of the inquiry, furnish to the person into whose conduct inquiry is made a statement of the case on which the inquiry is instituted:

(c) The person into whose conduct inquiry is made may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

(d) The court shall, on the conclusion of the inquiry, send to the Secretary of State a report containing a full statement of the case, and the opinion of the court thereon, and such report of, or extracts from, the evidence as the court may think fit:

(e) The court shall have power to cancel or suspend the certificate of the person into whose conduct inquiry is made, if it finds that he is, by reason of incompetency, or of such gross negligence or misconduct as aforesaid, or of his having been convicted of an offence against this Act or any enactment repealed by this Act, unfit to continue to hold a certificate of competency:

(f) The court may require the person into whose conduct inquiry is made to deliver up his certificate. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend, the certificate according to its judgment on the case:

(g) The court shall have, for the purpose of the inquiry, all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers:—

(i.) power, by summons signed by the court, to require the attendance of all such persons as it thinks fit to summon and examine for the purpose of the inquiry, and for that purpose to require answers or returns to such inquiries as the court thinks fit to make:

(ii.) power to require the production of all books, papers, and documents which the court considers important for the purpose of the inquiry:

(h) A person attending as a witness before the court shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of the Supreme Court, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

(2) If any person without reasonable excuse (proof whereof shall lie on him) fails to comply with any summons or requisition of the court, or impedes the court in the execution of its duty, he shall be guilty of an offence against this Act, and a person who is guilty of any such offence shall, in addition to any other fine to which he is liable under this Act, be liable to a fine not exceeding one pound for every day during which the offence continues.

(3) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a fine imposed by that court.

(4) The Secretary of State may, if he thinks fit, pay to the person or persons constituting the court, including any assessors, such remuneration as he may with the consent of the Treasury determine.

12. Provisions as to cancellation and suspension of certificates.—(1) Where a certificate of competency under this Act is cancelled or suspended in pursuance of this Act, the Secretary of State shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2) The Secretary of State may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register.

13. Copies of lost certificates.—Whenever any person proves to the satisfaction of the Secretary of State that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, the Secretary of State shall, on payment of such fee, if any, as he may prescribe, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out, and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

Firemen, Examiners, and Deputies.

14. Appointment of firemen, examiners, and deputies.—(1) For every mine there shall be appointed by the manager in writing one or more competent persons (hereinafter referred to as firemen, examiners or deputies) to make such inspections and carry out such other duties as to the presence of gas, ventilation, state of roof and sides, and general safety (including the checking and recording of the number of persons under his charge) as are required by this Act and the regulations of the mine.

(2) A fireman, examiner, or deputy shall be required to devote his whole time to such duties as aforesaid (hereinafter referred to as his statutory duties), but this provision shall not apply in the case of a fireman, examiner, or deputy in—

(a) any mine in which the total number of persons employed below ground at one time does not exceed thirty; or

(b) any mine in the counties of Durham or Northumberland; or

(c) any mine exempted by the inspector of the division on the ground of the special circumstances of the mine;

and nothing in this provision shall prevent any fireman, examiner, or deputy in any mine being employed in measuring the work done by persons in his district, or in firing shots in his district:

Provided that any duties assigned to or undertaken by any fireman, examiner, or deputy in

addition to his statutory duties shall not be such as to prevent him carrying out his statutory duties in a thorough manner; and, if any question arises whether any additional duties are such as to prevent him carrying out his statutory duties in a thorough manner, that question shall be decided by the inspector of the division, whose decision shall be final.

(3) The district of a mine assigned to a fireman, examiner, or deputy shall not be of such a size as would prevent him from carrying out in a thorough manner all his statutory duties.

(4) A mine in which there is a contravention of this section shall be deemed not to be managed in conformity with this Act.

15. Qualifications of firemen, examiners, and deputies.—(1) A person shall not, after the first day of January, nineteen hundred and thirteen, be qualified to be appointed or to be a fireman, examiner, or deputy unless he—

(a) is the holder of a first or second-class certificate of competency under this Act or is twenty-five years of age or upwards and has had at least five years' practical experience underground in a mine, of which not less than two years have been at the face of the workings of a mine; and

(b) has obtained a certificate in the prescribed form from a mining school or other institution or authority approved by the Secretary of State as to his ability to make accurate tests (so far as practicable with a safety lamp) for inflammable gas, and to measure the quantity of air in an air current, and that his hearing is such as to enable him to carry out his duties efficiently; and

(c) has, within the preceding five years, obtained from such approved school, institution, or authority as aforesaid, or from a duly qualified medical practitioner, a certificate in the prescribed form to the effect that his eyesight is such as to enable him to make accurate tests for inflammable gas and that his hearing is such as to enable him to carry out his duties efficiently, the expense of obtaining which shall, in the case of a person employed at the time as fireman, examiner, or deputy, be borne by the owner of the mine:

Provided that a person shall not be required to have obtained a certificate as to ability to make tests for inflammable gas or as to eyesight, if he is employed in a mine in which inflammable gas is unknown.

(2) The certificate as to the eyesight and hearing of a fireman, examiner, or deputy employed in a mine shall, whilst he is so employed, be kept at the office at the mine, and, whenever a requisition in that behalf is made by an inspector, produced for his inspection.

Inspections on behalf of Workmen.

16. Periodical inspection on behalf of workmen.—(1) The workmen employed in a mine may, at their own cost, appoint two of their number or any two persons, not being mining engineers, who are or who have been practical working miners and have had not less than five years' experience of underground work, to inspect the mine, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officials of the mine, to go to every part of the mine, and to inspect the shafts, roads, levels, workings, air-ways, ventilating apparatus, old workings, and machinery, and shall, where an accident has occurred in a mine of which notice is required under this Act to be given, be allowed to go together with any person acting as legal adviser to the workmen, or with a mining or electrical engineer selected by the workmen, accompanied as aforesaid, to the place where the accident occurred, and to make such inspection as may be necessary for ascertaining the cause of the accident, subject, however, to the provisions of this Act requiring the place

where an accident has occurred to be left as it was immediately after the accident.

(2) Every facility shall be afforded by the owner, agent, and manager and all persons in the mine for the purpose of the inspection, and the manager shall on demand produce to the persons appointed the certificates of all firemen, examiners, or deputies employed in the mine, and the persons appointed shall, except where the inspection is an inspection for the purpose of ascertaining the cause of an accident, forthwith make and sign a full and accurate report of the result of the inspection in a book to be kept at the mine for the purpose; and the owner, agent or manager shall forthwith cause a true copy of the report to be sent to the inspector of the division.

(3) If the owner, agent, or manager, or any other person refuses or neglects to afford such facilities as aforesaid, or if the manager fails to produce the certificates of the firemen, examiners, or deputies, or if the owner, agent, or manager fails to send a true copy of the report in accordance with this section, he shall be guilty of an offence against this Act.

Returns, Plans, Notices, and Books.

17. Reports by persons having responsible duties.—(1) In addition to the reports specially required by this Act, it shall be the duty of every person on whom responsible duties are imposed with respect to safety or to the condition of the roadways, workings, ventilation, machinery, shafts, shot-firing, safety lamps, electrical plant, or animals at a mine, and who shall be required to do so by the regulations of the mine, to make, at such intervals as may be fixed by the regulations of the mine in a book to be kept at the mine, full and accurate reports of the matters falling within the scope of his duties.

(2) Copies of the reports required to be made under the last preceding section and under the provisions of this Act relating to inspections before commencing work and inspections during shifts shall be posted up at the pit head, not later than ten o'clock in the morning on the day following the day on which the reports are made, and remain posted until ten o'clock in the morning on the following day.

18. Returns by owner, agent or manager of mine.—(1) On or before the twenty-first day of January in every year, the owner, agent, or manager of every mine shall send to the inspector of the division a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December—

- (a) the particulars contained in the form in the First Schedule to this Act, or in such other form as may, from time to time, be prescribed in lieu of that form;
- (b) such particulars as may be prescribed of all accidents which occurred in or about the mine during the year to which the return relates and disabled, for more than seven days, any person employed in or about the mine from working at his ordinary work;
- (c) such particulars as may be prescribed as to the supply and maintenance with respect to the mine of appliances for use in rescue work and ambulance appliances, the formation and training of rescue brigades, and the training of men in ambulance work; and
- (d) such other particulars as the Secretary of State may prescribe by order made in like manner and subject to the like procedure as general regulations under this Act.

(2) Forms for the purpose of the returns required by this section shall, on application, be furnished by the inspector of the division.

(3) The Secretary of State may publish the aggregate results of the returns made under this section with respect to any particular county or inspector's division, or any large portion of a county or inspector's division, and so much of any individual return as does not relate to the quantity or value of mineral gotten, but the portion of any individual return relating to the quantity or value of mineral gotten shall not be published without

the consent of the owner of the mine to which it relates; and no person, except an inspector or the Secretary of State, or any body of Commissioners incorporated by Act of Parliament for the drainage of mines, and authorised to assess and levy rates in respect of minerals gotten from such mines, shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

(4) Every owner, agent, or manager of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

19. Notices of opening and abandonment of mine.—In any of the following cases, namely,

- (i) Where any working is commenced for the purpose of opening a new shaft, outlet, or seam of any mine;
- (ii) Where a shaft, outlet, or seam of any mine is abandoned or the working thereof discontinued;
- (iii) Where the working of a shaft, outlet, or seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (iv) Where any change occurs in the name of any mine, or in the name of the owner or agent of any mine, or in the principal offices of any company which is the owner of a mine;

the owner, agent, or manager of the mine shall give notice thereof to the inspector of the division within two months after the commencement, abandonment, discontinuance, recommencement, or change, and, if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

20. Plans of mine and ventilation.—(1) The owner, agent, or manager of every mine shall keep in the office at the mine—

- (1) an accurate plan of the workings of the mine, up to a date not more than three months previously, showing—
 - (a) the boundaries of the mine, where possible, and the position of the workings with regard to the surface and variations of level on the roadways from the Ordnance basis, being variations of ten feet or any multiple of ten feet; and
 - (b) the general direction and rate of dip of the strata; and
 - (c) the position, direction, and extent of every known fault of every seam with its vertical throw, and of every known washout and intrusive dyke; and
 - (d) the depth of every shaft; and
- (ii) a section of the strata sunk through, or, if that is not reasonably practicable, a section of every seam.

(2) The owner, agent, or manager of every mine shall also keep in the office at the mine a separate plan showing the system of ventilation in the mine, and in particular the general direction of the currents, the points where the quantity of air is measured, and the principal devices for the regulation and distribution of the air, and on every such plan the intake airways shall be coloured blue and the return airways red.

(3) Every such plan must be on a scale of not less than forty inches to the mile, and must be prepared by or under the supervision of a surveyor possessing the prescribed qualifications, and shall be of a durable character:

Provided that, in the case of a mine opened before the passing of this Act, it shall be sufficient if the scale of the plan is not less than the Ordnance scale of twenty-five inches to the mile.

(4) The owner, agent, or manager of the mine shall, on request at any time of an inspector, produce to him at the office at the mine such plans and section, and shall also, on the like request, mark on such plans the then state of the workings of the mine as respects the particulars required to be shown on the plan under subsection (1) of this section; and the inspector shall be entitled to examine the plans and section, and, for official purposes only, to make a copy of any part thereof.

(5) If the owner, agent, or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined or copied, any such plan or section, or wilfully withholds any portion thereof, or wilfully refuses, on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment, imperfection, or inaccuracy) be guilty of an offence against this Act.

Further, the inspector may, by notice in writing (whether a penalty for the offence has or has not been inflicted), require the owner, agent, or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine in accordance with the provisions hereinbefore contained, and, if the owner, agent, or manager fails within twenty days after the requisition of the inspector, or within such further time as may be allowed by the Secretary of State, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

21. Plans of abandoned mines.—(1) Where any mine or seam is abandoned, the person who is owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to the Secretary of State:

- (i) An accurate plan of the mine or seam showing—
 - (a) the boundaries of the workings of the mine or seam, including not only the working faces but also all headings in advance thereof, up to the time of the abandonment;
 - (b) the pillars of coal or other mineral remaining unworked;
 - (c) the position, direction, and extent of every known fault of every seam in the mine or of the seam, as the case may be, with its vertical throw and of every known washout and intrusive dyke;
 - (d) the position of the workings with regard to the surface;
 - (e) the general direction and rate of dip of the strata; and
 - (f) the depth of every shaft or, in the case of an abandoned seam, the depth of every shaft from the surface to that seam; and
- (ii) A section of the strata sunk through, or, if that is not reasonably practicable, a section of every seam in the mine or of the seam, as the case may be.

(2) Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile in the case of a mine opened before the passing of this Act, and on a scale of not less than forty inches to the mile in the case of a mine opened after the passing of this Act, and its accuracy must be certified, so far as is reasonably practicable, by a surveyor possessing the prescribed qualifications, and it shall be of a durable character:

Provided that the foregoing requirement as to the scale of the plan shall not apply as respects any workings plotted before the commencement of this Act.

(3) The plan and section shall be preserved under the care of the Secretary of State:

Provided that, if an abandoned mine or seam is re-opened the owner shall be entitled to have the plan and section returned to him on depositing with the Secretary of State a copy of the plan and section, or of such portions thereof as the Secretary of State may require, certified to be correct by a competent draftsman.

(4) No person except an inspector shall be entitled, without the consent of the owner for the time being of the mine or seam, or a licence of the Secretary of State, to see the plan or section whilst preserved as aforesaid until after the expiration of ten years from the time of the abandonment, but such licence shall not be granted unless the Secretary of State is satisfied that the inspection of such plan is necessary in the interests of safety.

(5) Where a mine or seam has not been worked for a period of twelve months, it shall be deemed

for the purposes of this Act to have been abandoned unless the roadways and workings of the mine or seam are maintained in an accessible condition.

(6) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence against this Act.

(7) A complaint or information for an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens.

(8) The High Court may, on application by or on behalf of the Secretary of State, make an order requiring any person who has, for the time being, the custody or possession of any plan or section of an abandoned mine or seam to produce it to the Secretary of State for the purpose of inspection or copying.

22. Returns as to abandonment of mines.—Where any mine is abandoned, the person who is owner of the mine at the time of its abandonment shall, within three months of the abandonment, send to the inspector of the division a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return, except those required under Parts B. and D. of the First Schedule to this Act; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

23. Power of Secretary of State to have new plans prepared.—If it appears to the Secretary of State that any plan or section required by this Act to be kept in the office at a mine or to be sent to the Secretary of State is inaccurate, and that in the interests of safety it is desirable to have a new plan or section prepared, he may appoint a surveyor to make such new plan or section, and a surveyor so appointed shall be afforded by the owner, agent, or manager all necessary facilities for the purpose of making such plan or section, and if, on the making of such new plan or section, it appears that the original plan or section was inaccurate in any material particular, the cost of making the new plan or section, or such proportion thereof as the Secretary of State thinks fit, shall be defrayed by the owner of the mine or, as the case may require, the person who was at the time of its abandonment the owner of the mine or seam, and recoverable from him as a debt to the Crown.

24. Books and copies thereof.—(1) All such books as are by this Act required to be kept at a mine shall be provided by the owner, agent, or manager, and shall be in the prescribed form, and the books, or a correct copy thereof, shall be kept at the office at the mine and any inspector, and any person employed in the mine or anyone having the written authority of any inspector or person so employed, may, at all reasonable times, inspect and take copies of and extracts from any such books; but nothing in this Act shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book has ceased to be used for entries therein under this Act.

(2) Every report required by this Act to be recorded in a book kept at the mine for the purpose shall be submitted to the manager and under-manager, if any, of the mine, or, in the absence of the manager or under-manager, to the person performing the duties of manager or under-manager, as the case may be, in pursuance of the foregoing provisions of this Act, and shall be countersigned by them on the day on which the report is made or the day following.

(3) Any mine in which there is a contravention of or non-compliance with the provisions of this section shall be deemed to be not managed in conformity with this Act.

Miscellaneous.

25. Division of mine into parts.—(1) Where two or more parts of a mine are worked

separately, the owner, agent, or manager of the mine may give notice in writing to that effect to the inspector of the division, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine:

Provided that, where each of such parts of a mine has not a separate system of ventilation, a mine shall not be so divided, except with the permission of the inspector of the division and subject to such conditions as he may prescribe.

(2) Every notice given under the foregoing provision must specify the points of separation on all roads connecting the different parts of the mine.

(3) If the Secretary of State is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner, agent or manager of the mine; and, if the owner, agent, or manager refuses to acquiesce in such objection, the matter shall be determined in manner provided by this Act for settling disputes.

26. Fencing in case of abandoned mine.—(1) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, it shall be the duty of the owner thereof, and of every other person interested in the minerals of the mine, to cause the top or entrance of every shaft and outlet to be kept surrounded by a structure of a permanent character sufficient to prevent accidents:

Provided that—

(i) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry this section into effect, and to pay any costs, charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect:

(ii) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

(2) No person shall be precluded by any agreement or otherwise from doing, or be liable to any injunction, damages, penalty, or forfeiture in respect of, such acts as may be necessary in order to comply with the provisions of this section.

(3) Any shaft or outlet which is not kept surrounded by a structure as required by this section shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875 [39 & 40 Vict. c. 55].

27. Special provisions as to mines worked by contractor.—(1) In every mine the materials required for the support of the roofs and sides shall be provided by and at the cost of the owner of the mine, and the firemen, examiners, or deputies and all other officials of the mine shall be appointed, and their wages paid, by the owner, notwithstanding that the mine or any part thereof is worked, or any part of the operations therein is carried on, by a contractor, and no such contractor, nor any person employed by him, shall be appointed to be manager, under-manager, or fireman, examiner, or deputy of the mine.

(2) Where under any contract existing at the passing of this Act the materials required for the support of the roof or sides are to be provided, or the wages of any official are to be paid, by any person other than the owner, the owner may apply to the county court of the district in which the mine is situate, and the court may make such variation in the terms of the contract as appears to the court just and equitable under the circumstances of the case, or in the alternative the court may, at the request of the owner, determine the contract.

(3) Any mine in which there is a contravention of or non-compliance with the provisions of this section shall be deemed to be not managed in conformity with this Act.

28. Penalty for forgery of, or false declaration as to, certificate.—Every person who com-

mits any of the following offences; that is to say,

(1) Forges or counterfeits any certificate of competency or other certificate granted under this Act or any Act repealed by this Act, or any official copy of any such certificate; or

(2) Knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or

(3) For the purpose of obtaining, for himself or any other person, employment as a manager or under-manager or in any other capacity, or the grant renewal or restoration of any such certificate as aforesaid, or a copy thereof, either

(a) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or

(b) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same; or

(4) Knowingly makes any false statement in any report or entry required under this Act to be recorded in a book kept at the mine;

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment, with or without hard labour, for a term not exceeding two years.

PART II.

PROVISIONS AS TO SAFETY.

Ventilation.

29. Standard of ventilation.—(1) An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless inflammable and noxious gases to such an extent that all shafts, roads, levels, stables, and workings of the mine shall be in a fit state for working and passing therein, and in particular that the intake airways up to within one hundred yards of the first working-place at the working-face which the air enters shall be normally kept free from inflammable gas.

Provided always that—

(a) an abandoned road or level not used in connection with the working of the mine shall, if properly fenced off, not be deemed to be a road or level within the meaning of this section; and

(b) no person shall be liable in respect of any contravention of or failure to comply with the provisions of this section if he shows that the ventilation was interrupted in consequence of an accident, and that no persons were employed in any part of the mine in which an adequate amount of ventilation was not being produced, except such persons as it was necessary to employ in that part of the mine for the purpose of restoring the ventilation.

(2) In every mine the quantity of air in the main current and in every split and at such points as may be determined by the regulations of the mine shall, at least once in every month, be measured and entered in a book to be kept for the purpose at the mine.

(3) For the purposes of this section, a place shall not be deemed to be in a fit state for working or passing therein if the air contains either less than nineteen per cent. of oxygen or more than one-and-a-quarter per cent. of carbon dioxide, and an intake airway shall not be deemed to be normally kept free from inflammable gas if the average percentage of inflammable gas found in six samples of air taken by an inspector in the air current in that airway at intervals of not less than a fortnight exceeds one quarter:

Provided that, in case of a mine which is liable to spontaneous combustion of coal, a place shall be deemed to be in a fit state for working or passing therein, notwithstanding that the air contains either less than nineteen per cent. of oxygen or more than one-and-a-quarter per cent. of carbon dioxide, if the mine has been exempted by order of the Secretary of State, and the conditions on which the exemption is granted are complied with.

30. Classification of mines for purposes of ventilation.—(1) General regulations under this Act shall provide for the classification of mines according to the amount of the inflammable and noxious gases in the main return airway, and the amount of air passing into a mine shall not be less than such amount as may be prescribed by the general regulations as respects mines of the class to which the mine belongs.

(2) The obligation imposed by this section shall be in addition to, and not in substitution for, the obligation to provide an adequate amount of ventilation imposed by the last foregoing section.

31. Requirements as to the use of certain methods of ventilation.—(1) Where a fire is used for ventilation in any mine, the return air shall be carried off clear of the fire by means of a dumb drift or airway, unless the mine is one in which inflammable gas is unknown.

(2) Where a mechanical contrivance for ventilation is used at any mine, it shall not be placed beneath the surface:

Provided that this provision shall not be construed as preventing mechanical contrivances for ventilation being placed underground either—

(a) when such contrivances are auxiliary only and the contrivance whereby the main ventilation is produced is placed on the surface and is capable of producing such amount of ventilation as, in an emergency, would be sufficient for the safety of the persons employed underground; or

(b) when such contrivances afford a complete additional system of ventilation, and when a complete ventilating appliance is provided on the surface capable of producing such sufficient amount of ventilation as aforesaid and immediately available for use in the event of accident, and is kept in an effective condition and is used once at least in each week.

(3) After the first day of January, nineteen hundred and thirteen, or such later date as, in view of the circumstances of the mine, may be fixed by the inspector of the division, there shall, in every mine in which a mechanical contrivance for ventilation is used, be provided and maintained in a condition to be put into immediate operation adequate means for reversing the air current.

(4) No fire shall be used below ground for ventilation in any mine or seam newly opened after the passing of this Act, except in the case of a small mine, in which the upcast shaft contains no inflammable material.

Safety Lamps.

32. Use of safety lamps in certain places.—(1) No lamp or light other than a locked safety lamp shall be allowed or used—

(a) in any seam, where the air current in the return airway from any ventilating district in the seam is found normally to contain more than one half per cent. of inflammable gas; or

(b) in any seam (except in the main intake airways within two hundred yards from the shaft) in which an explosion of inflammable gas causing any personal injury whatever has occurred within the previous twelve months, unless an exemption is given by the Secretary of State on the ground that, on account of the special character of the mine, the use of safety lamps is not required;

(c) in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous;

(d) in any working near to or approaching a place in which there is likely to be an accumulation of inflammable gas;

(e) in any place where the use of safety lamps is required by the regulations of the mine:

Provided that—

(i.) subject always to the provisions of this Act and any regulations made thereunder as to the use of electricity in mines, electric lamps, if enclosed in airtight fittings and having the lamp globes hermetically sealed, may be

used on main haulage roads or elsewhere within such limits as may be fixed by the regulations of the mine; and

(ii.) for the purpose of paragraph (b) of this subsection an explosion occurring before the commencement of this Act shall not be taken into account.

(2) Where, in pursuance of this Act or the regulations of the mine, the use of safety lamps has been introduced in any part of a ventilating district, it shall not be lawful to use naked lights in any other part of the same ventilating district situated between the place where such lamps are used and the return airway, except when the use of safety lamps in that part of the district was introduced as a temporary precaution, and the conditions are not such as to render necessary the introduction of the use of safety lamps throughout the district.

(3) Where, in pursuance of this Act or the regulations of the mine, the use of safety lamps has been introduced otherwise than as a temporary precaution against apprehended danger in any part of a mine, no lamp or light, other than a locked safety lamp, shall subsequently be allowed or used in that part without the sanction of the inspector of the division, which sanction shall not be withheld unreasonably, and any question as to whether such sanction has been unreasonably withheld shall be determined in manner provided by this Act for settling disputes.

(4) The average percentage of inflammable gas found in six samples of air taken by an inspector in the air current in the return airway in the ventilating district at intervals of not less than a fortnight shall, for the purposes of this section, be deemed to be the percentage normally contained in the air.

(5) Where safety lamps are required, in pursuance of this section, to be used in any seam, they shall also be used in any cross-measure drift connected with that seam.

33. Construction of safety lamps.—Wherever safety lamps are required by this Act or the regulations of the mine to be used, no safety lamp shall, after the first day of January nineteen hundred and thirteen be used by any person employed in the mine, unless it is provided by the owner of the mine, and is of a type for the time being approved, as respects the class of mines to which the mine belongs, by the Secretary of State.

34. Examination of safety lamps.—(1) In any mine or part of a mine in which safety lamps are required by this Act or the regulations of the mine to be used—

(i) A safety lamp shall not be used unless it has, since last in use, been thoroughly examined at the surface by a competent person appointed in writing by the manager for the purpose and found by him in safe working order and securely locked, and a record shall be kept of the men to whom the several lamps are given out;

(ii) A competent person appointed in writing by the manager for the purpose shall also examine every lamp on its being returned, and if on such an examination any lamp is found to be damaged, he shall record the nature of the damage in a book to be kept at the mine for the purpose, and the damage shall be deemed to have been due to the neglect or default of the person to whom the lamp was given out, unless he proves that the damage was due to no fault of his own and that he immediately gave notice of the damage to the fireman, examiner, or deputy, or some other official of the mine appointed in writing by the manager for the purpose:

(iii) A safety lamp shall not be unlocked except at an appointed lamp station (which shall not be in a return airway) by a competent person appointed in writing by the manager for the purpose, nor, except in the case of electric hand lamps, shall it be relighted except by

such a person at an appointed lamp station after examination by him, and no person other than such person as aforesaid shall have in his possession any contrivance for relighting or opening the lock of any safety lamp:

(iv) No part of a safety lamp shall be removed by any person whilst the lamp is in ordinary use.

(2) Where, in any such mine or part of a mine as aforesaid, any damage is caused to a lamp through the neglect or default of the person to whom the lamp was given out, that person shall be guilty of an offence against this Act.

35. Prohibition against possession of lucifer matches, &c.—(1) In any mine or part of a mine in which safety lamps are required by this Act or the regulations of the mine to be used, no person shall have in his possession any lucifer match nor any apparatus of any kind for producing a light or spark except so far as may be authorised for the purpose of shot firing or relighting lamps by an order made by the Secretary of State, or any cigar, cigarette, pipe, or contrivance for smoking.

(2) The manager of a mine in which, or in any part of which, safety lamps are required by this Act or by the regulations of the mine to be used, shall, for the purpose of ascertaining before the persons employed below ground in the mine or in the part of the mine, as the case may be, commence work whether they have in their possession any lucifer match or such apparatus as aforesaid or cigar, cigarette, pipe, or contrivance for smoking, cause either all those persons, or such of them as may be selected on a system approved by the inspector of the division, to be searched in the prescribed manner after or immediately before entering the mine or that part of the mine.

(3) No person shall search any workmen in pursuance of this section, unless he has previously given an opportunity to some two workmen employed in the mine to search himself, and no lucifer match, or such apparatus as aforesaid, and no cigar, cigarette, pipe, or contrivance for smoking, has been found on him.

(4) Any person who refuses to allow himself to be searched in accordance with the foregoing provision shall be guilty of an offence against this Act, and shall not be allowed to enter the mine, or the part of a mine, as the case may be, and any person who, on being searched is found to have in his possession any of the articles prohibited under this section, shall be guilty of an offence against this Act.

Shafts and Winding.

36. Requirements as to shafts and outlets.—(1) There must be in every mine at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication; so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine.

(2) Such two shafts or outlets must not at any point be nearer to one another than fifteen yards, and there shall be between them a communication not less than four feet wide and four feet high.

(3) Every part of the mine in which ten or more persons are employed at the same time shall be provided with at least two ways affording means of egress to the surface, and so arranged that, in the event of either becoming impassable at any point, the other will afford means of egress to the surface.

(4) No person shall be precluded by any agreement from doing such acts as may be necessary for complying with the foregoing provisions of this section, or be liable under any contract to any injunction, damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply therewith.

(5) The foregoing provisions of this section shall not apply—

(i) in the case of a new mine or seam being opened—

(a) to any working for the purpose of making a communication between two or more shafts or outlets; or

(b) to any working for the purpose of searching for or proving minerals; so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet; nor

(iii) to any proved mine, so long as it is exempted by order of the Secretary of State on the ground either—

(a) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable; or

(b) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam; and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet; nor

(iii) to any mine—
(a) while a shaft is being sunk, or an outlet being made; or
(b) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine; so long as the mine is exempted by order of the Secretary of State, and as the conditions (if any) annexed to the order of exemption are duly observed.

(6) The foregoing provisions of this section requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifteen yards shall not apply to any mine which is provided with two shafts sunk before the first day of January eighteen hundred and sixty-five, and at that time separated by a distance of less than ten feet, or commenced to be sunk before the first day of January eighteen hundred and eighty-eight, and separated by a distance of ten feet or upwards, but less than fifteen yards.

(7) The foregoing provisions of this section as to the dimensions of the communications between two shafts or outlets shall not apply to any mine or class of mines for the time being exempted therefrom by order of the Secretary of State by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions (if any) annexed to the order of exemption are duly observed.

37. Fencing of shafts and entrances.—(1) Every entrance to any place below ground in a mine which is not in actual use or course of working or extension shall be kept securely fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

(2) The top of every shaft which for the time being is out of use, or used only as a ventilating shaft, shall be kept securely fenced.

(3) The top and bottom of every working, ventilating, or pumping shaft, and all entrances into the workings therefrom, shall be kept securely fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations if proper precautions are used.

38. Securing of shafts.—Every working or pumping shaft and every such shaft in the course of being sunk shall be securely cased or lined, or otherwise made secure.

39. Option of using downcast shaft.—Where of the two shafts communicating with a seam one is a furnace shaft, and both shafts are provided with apparatus in use for raising and lowering persons, every person employed in the seam shall, on giving reasonable notice, have the option of using the downcast shaft.

40. Provision of winding apparatus.—(1) Proper and separate apparatus for raising or lowering persons to or from the surface, of such a character as may be prescribed by the regulations of the mine, shall be kept at each of the two shafts or outlets required by the foregoing provisions of this Act, and at any other shaft or outlet for the time being in use for the purpose of ingress or egress, and such apparatus, if not in actual use, shall be constantly available for use, and no person shall, except for the purposes of sinking operations or for the purpose of examining or repairing the shafts or outlets or the machinery or appliances therein, or for the purpose of accompanying animals or bulky material which cannot be raised or lowered in a cage, or where a written exemption is given by the inspector of the division, be raised or lowered otherwise than in a cage constructed in accordance with the provisions of this section:

Provided that this subsection shall not apply to any outlet by which persons can walk into or out of the mine otherwise than by ladders.

(2) Where the apparatus ordinarily used for raising or lowering persons to or from the surface is worked by mechanical power it shall, if the shaft is vertical, be provided with a detaching hook, and, if the shaft is more than one hundred yards in depth, shall also be provided with an effective automatic contrivance to prevent overwinding.

The provisions of this subsection shall not apply to any mine or class of mine which is exempted by the Secretary of State on the ground of the special circumstances of the mine or class of mine, and shall come into operation on the first day of July nineteen hundred and thirteen or such later date as, in view of the circumstances of the mine, may be fixed by the inspector of the division.

(3) Guides shall be provided in the case of every working shaft over fifty yards in depth, and, in the case of every shaft in the course of being sunk, over one hundred yards in depth, unless a written exemption is given by the inspector of the division.

(4) Keps for supporting the cage when at rest shall be provided at the surface level where mineral is usually unloaded, but shall not be provided at any intermediate landings in the shaft. The keps provided at the surface level, and also the keps, if any, provided at the bottom of the shaft, shall be used when persons are entering or leaving the cage.

The foregoing requirement as to the provision of keps shall not apply to a system of winding by means of a single rope where the cages are held by the friction of the rope on the winding sheave.

(5) Every winding rope shall be recapped at intervals of not more than six months in accordance with general regulations under this Act, and no winding rope which has been in use for more than three and a half years or which has been spliced shall be used for raising or lowering persons.

(6) Every engine used for raising or lowering persons shall be completely separated by a substantial partition from every other engine used for that purpose at the same time, and from machinery used for any purpose other than for raising or lowering persons, unless a written exemption is given by the inspector of the division.

(7) Every cage shall be provided with catches or other suitable contrivance to prevent tubs falling out, and, if used for lowering or raising persons, shall be covered in completely at the top and closed in at the two sides in a sufficient manner to prevent persons or things from projecting beyond the sides, and shall be provided with suitable gates or other rigid fences and with a rigid hand bar fixed in a position where

it can be easily reached by all persons in the cage.

(8) Rods shall not be used for attaching a cage to the winding rope unless connected with the cage through the medium of an efficient spring.

(9) There shall be on the drum of every apparatus used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances as shall effectively prevent the rope from slipping.

(10) Where the apparatus used for lowering or raising persons is worked by mechanical power, there shall be provided one or more brakes of sufficient power by themselves to hold the cage when loaded at any point in the shaft, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine, on a dial or in some sufficient manner, the position of the cage in the shaft and placed in such a position as to be easily seen by him at the same time as the marks on the rope.

If the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft.

(11) No minerals, tubs, timber, or other materials, and no implements or tools other than scientific instruments, shall be raised or lowered whilst persons are being raised or lowered in the same shaft, whether in the same cage or not:

Provided that—

(a) this subsection shall not apply in the case of men working in the shafts, or in the case of men accompanying animals or bulky materials which cannot be raised or lowered in a cage; and

(b) where a shaft is divided throughout by a substantial partition, each section of the shaft shall, for the purpose of the provisions of this subsection, be deemed to be a separate shaft.

41. Means of signalling in shafts.—Every working shaft and every shaft in the course of being sunk shall, if exceeding twenty-five yards in depth, be provided with some proper means of communicating distinct and definite signals from and to the bottom of the shaft, and from and to every entrance for the time being in use between the surface and the bottom of the shaft, to and from the surface.

Travelling Roads and Haulage.

42. Provisions as to travelling roads.—(1) For every seam in a mine newly opened after the commencement of this Act and not being a mine exempted from this provision by general regulations under this Act, there shall be provided (except within such distance from the shaft as may be fixed by the regulations of the mine) two main intake airways, which shall be of such size and shall be maintained in such condition as to afford a ready means of ingress to and egress from the workings, and one of which shall not be used for the haulage of coal.

General regulations shall be made under this Act for determining the classes of mines which ought, having regard to their natural condition, to be exempted from the foregoing provision, and those regulations shall also provide for the exemption of any mine in which the number of persons employed underground does not at any one time exceed one hundred or which is naturally wet throughout.

(2) For every seam in a mine newly opened after the commencement of this Act which is exempted by general regulations from the foregoing provisions of this section, and for every seam in a mine opened before the passing of this Act, there shall be provided two main airways, which shall be of such size and shall be maintained in such condition as to afford a ready means of ingress to and egress from the workings.

(3) In the case of every mine or seam newly opened after the commencement of this Act, all stoppings between main intake airways and main return airways and all air-crossings shall so far as practicable be so constructed as not to be liable to be destroyed in the event of an explosion, and general regulations may be made under this Act providing for the manner in which such stoppings and air-crossings are to be constructed.

(4) Where, in the case of any mine or seam

newly opened after the passing of this Act, the air-current in the main return airway is found normally to contain more than one half per cent. of inflammable gas, that airway shall not (except for the purpose of removing any coal gotten in the operation of enlarging or repairing the airway, or within a distance of three hundred yards from the shaft) be used for the haulage of coal.

For the purpose of this provision, the average percentage of inflammable gas found in six samples of air taken by an inspector in the air-current at intervals of not less than a fortnight shall be deemed to be the percentage normally contained in the air-current.

(5) In the case of every mine newly opened after the commencement of this Act, the main airways, if driven in the same seam, shall be so arranged that they shall not, at any point, except for the purpose of crossing, or within a distance of three hundred yards from the shafts, or such other distance from the shafts as may be fixed by the regulations of the mine, be less than such distances apart as shall be fixed by the regulations of the mine, and the distances from one another of the connexions between the main airways shall not be less than the minimum distance specified in those regulations.

43. Provisions as to travelling on haulage roads, &c.—(1) On and after the first day of January, nineteen hundred and fourteen, no person, other than an official of the mine or a person employed on the road in connexion with the haulage, or a person engaged in carrying out any repairing work requiring to be carried out forthwith, shall, while the haulage is in motion, travel on foot on any haulage road on which the haulage is worked by gravity or mechanical power, except—

- (a) Where there is provided on one side of the road a clear space of at least two feet in width between the tubs and that side of the road, and the rate of haulage is not more than ten miles an hour; or
- (b) Where, in the case of a haulage road in which such a clear space as aforesaid is not provided, the rate of haulage is not more than three miles an hour and the gradient does not exceed one in twelve, or in respect of any part of the road not exceeding one hundred yards in length, one in nine, and the space between the tracks of rail, where there is more than one track, is kept clear of obstructions:

Provided that—

(i) in the case of a haulage road in which such a clear space as aforesaid has been provided, but the space so provided has in some part of it been reduced to a width of less than two feet by reason of some cause over which the owner, agent, or manager of the mine has no control, the foregoing prohibition shall not apply during the time (not exceeding the time reasonably required for the purpose) during which the repairs necessary for restoring the width to two feet are being carried out; and

(ii) the exception hereinbefore contained as respects haulage roads in which no such clear space as aforesaid is provided shall apply only in the case of mines opened before the commencement of this Act or mines in which the character of the strata makes it unreasonable to require such a clear space to be provided.

If any question arises as to whether the character of the strata in any mine makes it unreasonable to require a clear space to be provided, that question shall be determined in the manner provided by this Act for settling disputes.

(2) Where the haulage is worked by gravity or mechanical power, no person shall be allowed to ride on sets or trains of tubs except—

- (a) a person travelling on a set or train for the purpose of detaching or attaching tubs from or to the haulage rope, if that

set or train is not proceeding at a higher speed than three miles an hour; or

- (b) men being conveyed, with the written permission of the manager or under-manager, to or from their work at the commencement or end of their employment (including any person in charge of a set or train of tubs on which men are being so conveyed); or

- (c) the driver of a locomotive.

(3) In all places where sets or trains consisting of three or more tubs are coupled or uncoupled, there shall be a clear space of at least two feet between tubs standing on any rails and the side of the road nearest to those rails:

Provided that—

- (a) where there are two parallel lines of rails, the foregoing provision shall not apply if there is a clear space of at least three feet between tubs standing on those rails; and

- (b) where, in the case of any existing mine, compliance with the requirements of this subsection would necessitate the removal of arching or other masonry work, or where, in the case of any mine, sets or trains of tubs are coupled or uncoupled at the face, or at the pass-by next the face, other provisions for securing safety may be substituted by the regulations of the mine for those requirements.

The provisions of this subsection shall come into operation on the first day of January, nineteen hundred and thirteen:

Provided that this subsection shall not apply to any district in any mine as respects which the Secretary of State is satisfied that it will be worked out within three years from the commencement of this Act.

(4) In measuring any clear space for the purposes of this section, any props or other supports of the roof projecting beyond the side of the road shall be deemed to form part of the side.

44. Provision of refuge holes.—(1) Every haulage road on which the haulage is worked by gravity or mechanical power shall be provided with sufficient refuge holes at intervals of not more than ten yards, but, if the gradient does not exceed one in twenty, and either such a clear space as aforesaid is provided or the rate of haulage is not more than three miles an hour, it shall be sufficient if the intervals are not more than twenty yards.

(2) Every haulage road on which haulage is worked by animal power shall be provided with sufficient refuge holes at intervals of not more than twenty-five yards.

(3) Every refuge hole shall be—

- (a) as near as may be three feet in width and not less than four feet in depth;
- (b) not less in height than the height of the haulage road at the point where the hole is, or six feet, whichever is the less;
- (c) if such a clear space as aforesaid is provided, on the same side of the road as that space;
- (d) if no such clear space as aforesaid is provided, on the same side of the road as the other refuge holes, or where the road is on a curve, on the outer side of the curve;
- (e) marked with a distinctive number;
- (f) if necessary to make it readily visible, constantly kept whitewashed both inside and for a distance of not less than one foot round the aperture;
- (g) kept clean.

(4) Nothing shall be placed in any refuge hole or across the entrance thereto so as to impede ingress.

(5) Notwithstanding anything in this section, it shall not be necessary to provide refuge holes on any road within twenty-five yards of the working face.

45. Dimensions of travelling roads.—(1) Every travelling road shall be of adequate height, and, if the height of any such road appears to the inspector of the division to be inadequate, he may require that the height be increased to such extent as he thinks proper, and the manager shall comply with the require-

tion unless he disputes the reasonableness thereof, in which case the dispute shall be settled in manner provided by this Act for settling disputes.

(2) Every road on which a horse or other animal is used underground or by which it has to pass to get to its work shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing itself or its harness against the roof or sides or the bars or props supporting the roof or sides.

46. Apparatus on haulage roads.—(1) Every rope used for haulage which is capped shall be recapped at intervals of not more than six months in accordance with general regulations under this Act.

(2) Sufficient and suitable sprags, lockers, or drags shall be provided and used for the purpose of holding a tub or set of tubs—

- (a) at the top of every incline on which the haulage is worked by gravity;
- (b) at every place where sets or trains consisting of three or more tubs are coupled or uncoupled;
- (c) on all roads or parts of roads where the gradient exceeds one in twenty, and the haulage is worked by animal power.

(3) Stop blocks or other similar contrivances shall be provided at the top of every incline on which the haulage, not being endless-rope or endless-chain haulage, is worked by gravity, and at every entrance thereto by which tubs are brought on to the incline.

(4) On every haulage road where mechanical haulage, not being endless-rope or endless-chain haulage, is used, and where the gradient exceeds one in twelve—

- (a) runaway switches or other suitable contrivances shall be provided where the use thereof is practicable to prevent accidents in the event of a tub running away;
- (b) there shall be provided and attached to an ascending tub or set of tubs a backstay or other suitable contrivance for preventing the tub running back;
- (c) over-chains, bridle-chains, or other suitable appliances shall be provided to prevent tubs in which persons are being conveyed from becoming disconnected and running away.

47. Clearance of haulage roads.—Every haulage road shall be kept clear as far as possible of pieces of coal and other obstructions.

48. Provision of means of signalling.—Every haulage road on which persons travel and on which the haulage is worked by gravity or mechanical power shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between all regular stopping places and the ends of the road.

Support of Roof and Sides.

49. Securing of roofs and sides.—The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel on or work in any travelling road or working place which is not so made secure.

50. Systematic support of roof and sides.—(1) Where props or props and bars or chocks are used to support the roof at the working face, the roof under which any work of getting coal or filling tubs is carried on shall be systematically and adequately supported, and the props or chocks shall be set at such regular intervals and in such manner as may be specified in the notice hereinafter mentioned.

(2) Holing props or sprags shall be set as soon as practicable, and shall be set at such regular intervals and in such manner as may be specified in the notice hereinafter mentioned, and shall not be removed until the coal is about to be taken down and before the roof supports (if any) have been advanced in the manner specified in the notice.

(3) In all parts of a roadway in which sets or trains consisting of three or more tubs are coupled or uncoupled, the roof and sides shall be systematically and adequately supported, and

in such parts and in all other parts of the roadway the roof or sides of which require to be supported, if props or bars are used as supports, such supports shall be set at such regular intervals and in such manner as may be specified in the notice hereinafter mentioned.

(4) The manager shall, by notice, specify the manner in which the supports are to be set and advanced, and the maximum intervals to be observed on roadways between the supports, and at the face—

- (a) between each row of props;
- (b) between adjacent props in the same row;
- (c) between the front row of props and the face;
- (d) between the holing props or sprags;
- (e) between chocks;

Provided that the interval between holing props or sprags shall in no case exceed six feet.

(5) If the inspector of the division considers that the system of supporting the roof and sides adopted in any part of a mine is unsatisfactory, either by reason of the distances fixed or any of them being excessive or otherwise, he may require the manager to fix some less distance or otherwise modify the system, and the manager shall comply with the requisition unless he disputes the reasonableness thereof, in which case the dispute shall be settled in manner provided by this Act for settling disputes.

(6) This section shall not apply to the mines of stratified ironstone in the Cleveland district or of thick coal in the South Staffordshire district or to mines in any other district as respects which the Secretary of State is satisfied that similar conditions prevail.

(7) Nothing in this section shall prevent a workman from setting supports in his working place at more frequent intervals than those specified in the notice aforesaid, where necessary for safety.

51. Supply of props and bars.—Where the work of erecting the supports of the roof and sides of working places is done by the workmen employed therein, a sufficient supply of timber or other materials suitable for supports shall be kept at or within ten yards of every working place where, in pursuance of this Act, supports are required to be erected, and also at the pass-by, siding, or other similar place in the mine convenient to the workmen; and it shall be the duty of the firemen, examiners, or deputies to see that such sufficient supply is so kept, and any working place in which such a sufficient supply is not kept shall not be deemed to be safe for the purpose of the provisions of this Act. Sufficient timber or other materials as aforesaid, to enable the firemen, examiners, or deputies to see that the provisions of this section are complied with shall be constantly provided.

52. Withdrawal and removal of supports.—(1) In any part of a mine where any work is being carried out which necessitates the removal of roof supports, temporary supports shall, in all cases, be set so as to secure the safety of the persons employed.

(2) Props shall not be withdrawn from the waste or goaf or from under a roof which appears to a fireman, examiner, or deputy to be insecure otherwise than by means of a safety contrivance, and it shall be the duty of the firemen, examiners, and deputies to examine all roofs from under which props are about to be withdrawn with a view to determining whether the props ought to be withdrawn by means of a safety contrivance.

Signalling.

53. Signalling.—(1) The general code of signals in mines shall be such uniform code as may be prescribed by general regulations under this Act.

(2) There shall be in attendance at the top of every shaft by which any persons are about to be lowered into the mine a competent person for the purpose of receiving and transmitting signals, and, as long as persons are in the mine below ground, a competent person shall be in constant attendance for that purpose at the top of the shaft from which such persons are to be raised and, unless all the persons in the mine are officials or persons authorised in writing by

the manager to give signals, at every entrance from the workings in which such persons are engaged into the shaft from which persons are raised.

(3) All signals, other than those relating to underground haulage, transmitted to the surface shall be transmitted simultaneously to the engine-man and to the persons stationed as aforesaid at the top of the shaft.

54. Telephonic communication.—Such means of telephonic communication between different parts of a mine shall be provided as may be required by the regulations of the mine.

Provisions as to Machinery.

55. Fencing machinery.—Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be kept securely fenced.

56. Boilers.—(1) Every steam boiler used for generating steam in or about a mine must, whether separate or one of a range—

- (a) have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in each boiler; and
- (b) be examined thoroughly by a competent person at least once in every fourteen months; and
- (c) be cleaned out and examined internally, as far as the construction of the boiler will permit, by the person in charge of it once at least in every three months.

(2) Every such boiler, safety-valve, steam-gauge, and water-gauge must be maintained in proper working condition, and all water-gauges shall be adequately protected by a covering or guard unless so constructed as to be equally safe to the persons employed whether so protected or not.

(3) A report of the result of every examination under this section in the prescribed form, and containing the prescribed particulars, shall, within fourteen days, be entered into or attached to a book to be kept at the mine for the purpose, and the report shall be signed by the person making the examination, and, if that person is an inspector of a boiler inspecting company or association, by the chief engineer of the company or association.

(4) The foregoing provisions of this section shall not apply to the boiler of any locomotive which belongs to and is used by any railway company.

(5) A steam boiler shall not be placed under ground in any mine after the passing of this Act.

57. Appointment and duties of engineman.—(1) A competent male person not less than twenty-two years of age shall be appointed in writing by the manager for the purpose of working the machinery which is employed in lowering and raising persons from or to the surface, and a person so appointed for that purpose is in this Act referred to as a winding engineman.

(2) A winding engineman shall attend for the purpose aforesaid during the whole time that any person is below ground in the mine.

(3) After the prescribed date and except as may be provided by general regulations under this Act, a winding engineman shall not be employed for more than eight hours in any one day, and provision shall be made by general regulations for requiring particulars to be recorded in a book kept at the mine with respect to the hours of employment of winding enginemen.

(4) Where on any haulage road the haulage is effected by means of any machinery worked either by mechanical power or by animal or manual labour, the person in charge of such machinery, and, if persons are being conveyed, the person in charge of any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age. The foregoing provision shall not apply in the case of machinery worked by an engine of not more than ten horse-power, and used for the purpose of hauling mineral from the face.

Where the machinery is worked by an animal,

the person under whose direction the driver of the animal acts shall for the purposes of this section be deemed to be the person in charge of the machinery.

58. Restriction on use of internal combustion engines in mines.—Except with the permission of the Secretary of State, no internal combustion engine shall be newly introduced underground in any coal mine after the passing of this Act.

59. Egress from engine rooms, &c.—Every steam engine room and boiler gallery and motor room in or about a mine shall be provided with at least two proper means of egress.

Electricity.

60. Restrictions on the use of electricity.—(1) Electricity shall not be used in any part of a mine where, on account of the risk of explosion of gas or coal dust, the use of electricity would be dangerous to life, and, if the owner of a mine, on being required by an inspector of the division not to use, or to desist from using, electricity in the mine or any part thereof on such ground as aforesaid, refuses to do so, the question as to the application of this section to the mine or any part thereof shall be settled in manner provided by this Act for settling disputes.

(2) If at any time in any place in the mine the percentage of inflammable gas in the general body of the air in that place is found to exceed one and a quarter, the electric current shall at once be cut off from all cables and other electrical apparatus in that place, and shall not be switched on again as long as the percentage of inflammable gas exceeds that amount: Provided that nothing in this subsection shall apply to any telephone or signalling wires or instruments as long as the conditions prescribed with reference to the installation and use of such wires and instruments are complied with, nor to any electric hand-lamps of a type for the time being approved.

(3) When any question under this section is to be settled in the manner provided by this Act for settling disputes, the owner shall, pending the settlement of the question, comply with the requirement of the inspector subject to an appeal to the chief inspector.

(4) The use of electricity in any mine shall be subject to general regulations under this Act.

Explosives.

61. Explosives.—(1) The Secretary of State may, by order of which notice shall be given in such manner as he may direct, regulate the supply, use, and storage of any explosives at mines or any class of mines, and may, by any such order, prohibit the use of any explosive which appears to him of a kind to be or to be likely to become dangerous in mines or any class of mines, either absolutely or subject to such conditions as may be prescribed by the order.

(2) No explosives shall be taken into or used in any mine except explosives provided by the owner, and the price, if any, charged by the owner to the workman for any explosives so provided shall not exceed the actual net cost to the owner.

Prevention of Coal Dust.

62. Prevention of coal dust.—In every mine, unless the floor, roof, and sides of the roads are naturally wet throughout,—

(1) arrangements shall be made to prevent, as far as practicable, coal dust from the screens entering the downcast shaft; and, in the case of a mine newly opened after the passing of this Act, no plant for the screening or sorting of coal shall be situated within a distance of eighty yards from any downcast shaft unless a written exemption is given by the inspector of the division;

(2) the tubs shall be so constructed and maintained as to prevent, as far as practicable, coal dust escaping through the sides, ends, or floor of the tubs, but any tub which was in use in any mine at the date of the passing of this Act may, notwithstanding that it is not so constructed, continue to be used in that mine for a period of five years from the said date;

- (3) the floor, roof and sides of the roads shall be systematically cleared so as to prevent, as far as practicable, coal dust accumulating;
- (4) Such systematic steps, either by way of watering or otherwise, as may be laid down by the regulations of the mine shall be taken to prevent explosions of coal dust occurring or being carried along the roads;
- (5) The roads shall be examined daily and a report (to be recorded in a book kept at the mine for the purpose) made on their condition as to coal dust and on the steps taken to mitigate danger arising therefrom.

Inspections as to Safety.

63. Appointment of stations.]—For the purpose of the inspections before the commencement of work in a shift hereinafter mentioned, one or more stations shall be appointed at the entrance to the mine or to different parts of the mine, as the case may require, and no workman shall pass beyond any such station until the part of the mine beyond that station has been examined and reported to be safe in manner hereinafter mentioned.

64. Inspections before commencing work.]—

(1) The firemen, examiners, or deputies of a mine shall, within such time not exceeding two hours immediately before the commencement of work in a shift as may be fixed by the regulations of the mine, inspect every part of the mine situated beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and all working places in which work is temporarily stopped within any ventilating district in which the men have to work, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

(2) Except in the case of a mine in which inflammable gas is unknown, the inspection shall be made with a locked safety lamp, and no other light shall be used during the inspection.

(3) A full and accurate report specifying whether or not, and where, if any, noxious or inflammable gas was found, and whether or not any, and, if any, what defects in roof or sides and other sources of danger were observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and, so far as the same does not consist of printed matter, shall be in the handwriting of, the person who made the inspection.

(4) For the purpose of the foregoing provisions of this section, two or more shifts succeeding one another so that work is carried on without any interval are to be deemed to be one shift.

65. Inspections during shifts.]—A similar inspection shall be made twice at least in the course of each shift of all parts of the mine situated beyond the station or each of the stations aforesaid and in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the first of such inspections in a book: Provided that, in the case of a mine worked by a succession of shifts, no place shall remain uninspected for an interval of more than five hours.

66. Examination of machinery.]—Competent persons appointed by the manager for the purpose shall—

- (a) once at least in every twenty-four hours examine thoroughly the state of the external parts of the machinery, the state of the guides in the shafts, and the state of the head gear, ropes, chains, cages, and other similar appliances of the mine which are in actual use for the purpose of raising or lowering persons in a mine; and
- (b) once at least in every week examine thoroughly the state of all other machinery, gear, and other appliances of the mine which are actually in use, whether above ground or below ground; and
- (c) once at least in every week examine

thoroughly the state of the shafts in which persons are lowered or raised; and

- (d) once at least in every week examine thoroughly the state of every airway in the mine;

and shall make a full and accurate report of the result of the examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose and accessible to the workmen, and shall be signed by the person who made the examination.

Withdrawal of Workmen.

67. Withdrawal of workmen in case of danger.]

—(1) If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that, by reason of the prevalence of inflammable or noxious gases, or of any cause whatever, the mine or any place in the mine is dangerous, every workman shall be withdrawn from the mine or place found dangerous, and a fireman, examiner, or deputy, or other competent person authorised by the manager or under-manager for the purpose shall inspect the mine or place found dangerous, and, if the danger arises from inflammable gas, shall inspect the mine or place with a locked safety lamp, and in every case shall make a full and accurate report of the condition of the mine or place; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine or place found dangerous, until the same is reported by the fireman, examiner, or deputy not to be dangerous.

(2) For the purposes of this section, a place shall be deemed to be dangerous if the percentage of inflammable gas in the general body of the air in that place is found to be two and a half or upwards, or, if situated in a part of a mine worked with naked lights, one and one quarter or upwards.

(3) Every such report shall be recorded in a separate book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

(4) If a workman discovers the presence of inflammable gas in his working place, he shall immediately withdraw therefrom and inform the fireman, examiner, or deputy.

Miscellaneous.

68. Water and bore-holes.]—Where any working has approached within forty yards of a place containing or likely to contain an accumulation of water or other liquid matter, or of disused workings (not being workings which have been examined and found to be free from accumulations of water or other liquid matter), the working shall not exceed eight feet in width, and there shall be constantly kept extending to a sufficient distance, not being less than five yards, in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side at intervals of not more than five yards.

69. Storage and use of inflammable material below ground.]—(1) No oil, grease, canvas, or other highly inflammable material shall be stored below ground in any mine except in a fireproof receptacle or chamber.

(2) In any mine, being a mine newly opened after the passing of this Act and not being a small mine, no inflammable material likely to cause danger from fire to the persons employed below ground shall be used in the construction of the pithead frame or of the roof, if any, over the pithead.

(3) No inflammable material likely to cause danger from fire to the persons employed below ground shall, after the passing of this Act, be used in the construction of any engine-house below ground.

70. Provision of means for extinguishing fire.]

—At all parts of a mine where timber, grease, or other inflammable material is stored, and at all insets where timber is used for the construction of the staging, and at every pithead, steam-engine room, and boiler gallery in the construction of which timber is used, adequate means of extinguishing fire shall be provided.

71. Barometer, &c.]—(1) A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine, and a hygrometer shall be placed below ground in a conspicuous position near a shaft or outlet both in the main intake airway and in the main return airway.

(2) The instruments required to be provided under this section shall be read at such intervals and by such persons as may be prescribed by general regulations, and the readings taken at the prescribed intervals shall be entered in a book to be kept at the mine for the purpose.

72. Wilful damage.]—No person shall wilfully damage, or without proper authority remove or render useless, any apparatus, appliance or thing provided in any mine in compliance with this Act.

73. Prohibition of inexperienced persons working alone as getters.]—No person shall be allowed to work as a coal or ironstone getter otherwise than under the supervision of a skilled workman until he has had two years' experience of such work under such supervision, or unless he has been previously employed for two years in or about the face of the workings, nor shall a skilled workman have under his supervision at the same time more than one person who has not had such experience, or been so employed, as aforesaid.

74. Observance of Directions.]—Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Part of this Act or the regulations of the mine or with a view to safety.

75. Penalties for non-compliance with provisions as to safety.]—Any person who contravenes or does not comply with any of the provisions of this Part of this Act shall be guilty of an offence against this Act, and, in the event of any contravention of or non-compliance with any of the provisions of this Part of this Act by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing those provisions to prevent that contravention or non-compliance.

PART III.

PROVISIONS AS TO HEALTH.

76. Provision as to sanitary conveniences.]—General regulations shall be made under this Act with respect to the provision and use of sanitary conveniences in mines, both above and below ground.

77. Provision of washing and drying accommodation.]—(1) Where a majority, ascertained by ballot of two-thirds of the workmen employed in any mine to whom this section applies, represent to the owner of the mine that they desire that accommodation and facilities for taking baths and drying clothes should be provided at the mine and undertake to pay half the cost of the maintenance of the accommodation and facilities to be provided, the owner shall forthwith provide sufficient and suitable accommodation and facilities for such purposes as aforesaid:

Provided that the owner shall not be bound to provide any such accommodation and facilities, if the estimated total cost of maintenance exceeds threepence per week for each workman liable to contribute under this section.

(2) General regulations shall be made under this Act for determining what are sufficient and suitable accommodation and facilities for the purposes of this section, and any such regulations may make different requirements as respects different classes or descriptions of mines.

(3) For the purposes of this section, cost of maintenance includes interest on capital expenditure (not exceeding five per cent. per annum), and if any question arises as to the estimated cost of maintenance that question shall, in accordance with regulations as to procedure and costs to be made by the Secretary of State, be referred to an arbitrator to be agreed upon between the parties, or, in default of agreement as to an arbitrator, to a person appointed by the judge of county courts for the district, or in

Scotland by the sheriff of the county, in which the mine is situate, and the decision of the arbitrator or of the person so appointed, as the case may be, shall be final.

(4) Where any such accommodation and facilities have been provided, every workman at the mine to whom this section applies (whether he was or was not employed at the mine at the time when the ballot of the workmen for the purposes of this section was taken) shall be liable to contribute a sum equal to one-half of the cost of maintenance (but not exceeding three half-pence per man per week), and the owner shall be entitled to recover such contributions from the workmen liable to contribute by deduction from their wages, notwithstanding the provisions of any Acts relating to truck or any contract to the contrary:

Provided that the obligation to contribute shall not apply to any workman who is exempted on the ground of health in accordance with the regulations of the mine.

(5) The management of the accommodation and facilities provided under this section shall be under the control of a committee to be established in accordance with the regulations of the mine, and consisting as to one half of members appointed by the owner of the mine and as to the other half of members appointed by the workmen liable to contribute under this section. The powers and duties of the committee in relation to the management of the accommodation and facilities shall be such as may be laid down by general regulations, and the owner of the mine shall not be liable to any penalty as for failure to comply with the provisions of this section in respect of any act performed by the committee in pursuance of their powers or of any failure by the committee to perform any of their duties.

(6) The workmen to whom this section applies are all workmen employed underground, and all workmen engaged on the surface in handling tubs, screening, sorting, or washing coal, or loading coal into wagons.

(7) This section shall not apply to any mine where the total number of the workmen employed at the mine to whom this section applies is less than one hundred, or to any mine held by the owner under a lease of which the unexpired term is less than ten years or to any mine as respects which the Secretary of State is satisfied that it will be worked out within ten years.

(8) If the owner of any mine fails to comply with the provisions of this section, he shall be guilty of an offence against this Act.

(9) Where a majority, ascertained by ballot of two-thirds of the workmen at a mine, represent to the owner of the mine that they desire that this section should cease to have effect as respects the mine, this section shall, unless the owner by notice affixed at the mine within one month after the receipt by him of the representation declares that he does not assent thereto, cease to have effect accordingly as from a date to be agreed upon between the owner and the workmen.

(10) A fresh representation shall not be made as respects any mine either under subsection (1) or under subsection (9) of this section before the expiration of five years from the date of any previous representation made with respect to that mine.

78. Use of sprays when drilling silicious rock.]—A drill worked by mechanical power shall not be used for drilling in ganister hard sandstone or other highly silicious rock, the dust from which is liable to give rise to fibroid phthisis, unless a water jet or spray or other means equally efficient is used to prevent the escape of dust into the air, and, if any person contravenes or fails to comply with the provisions of this section, he shall be guilty of an offence against this Act, and, in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent the contravention or non-compliance.

79. Notification of industrial diseases.]—Written notice of every case of any disease occur-

ing in a mine and occasioned by the nature of the employment (being a disease specified in an order made by the Secretary of State for the purpose) shall forthwith be sent to the inspector of the division, and the provisions of this Act with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in those provisions:

Provided that a person shall not be liable to any penalty for failing to send notice under this section of any disease so specified, if he proves that he was not aware of the disease having occurred, and that he had taken all reasonable steps for having the occurrence of all such diseases brought to his notice.

PART IV.

PROVISIONS AS TO ACCIDENTS.

Notices of Accidents.

80. Notices of accidents.]—(1) Where, in or about any mine, whether above or below ground, any accident occurs which either—

(i) causes loss of life to any person employed in or about the mine; or

(ii) causes any fracture of the head or of any limb, or any dislocation of a limb, or any other serious personal injury to any person employed in or about the mine; or

(iii) is caused by any explosion of gas or coal dust or any explosive, or by electricity, or by overwinding, or by any other such special cause as the Secretary of State specifies by order, and causes any personal injury whatever to any person employed in or about the mine;

the owner, agent, or manager of the mine shall forthwith send notice in writing of the accident, and of any loss of life or personal injury caused thereby, to the inspector of the division, in such form and accompanied by such particulars as may be prescribed, and, in the case of an accident causing loss of life or serious personal injury, notice in such form and accompanied by such particulars as may be prescribed shall also be sent to the person (if any) nominated by the persons employed at the mine for the purpose of receiving notice under this section on their behalf.

(2) Where loss of life or serious personal injury has immediately resulted from an accident, the place where the accident occurred shall be left as it was immediately after the accident, until the expiration of at least three days after the sending of such notice as aforesaid of such accident, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine.

(3) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the division on behalf of a Secretary of State within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager.

(4) Every owner, agent, or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

81. Power to extend provisions as to notice of accidents to dangerous occurrences.]—(1) If the Secretary of State considers that, by reason of the risk of serious injury to persons employed, it is expedient that notice should be given under this Act in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences at a mine, the Secretary of State may, by order, extend the provisions of this Act requiring notice of accidents to be given to an inspector to any such class of occurrences, whether personal injury or disablement is caused or not, and, where any such order is made, the provisions of this Act shall have effect as extended by the order.

(2) The Secretary of State may, by any such order, allow the required notice of any occurrence to which the order relates, instead of being sent forthwith, to be sent within the time limited by the order.

Reports, Investigations, and Inquests.

82. Special reports of inspectors.]—Where at any mine an accident has caused loss of life or personal injury to any person, the Secretary of State may, at any time, direct an inspector to make a special report with respect to the accident, and the Secretary of State may cause any such report to be made public at such time and in such manner as he may think fit.

83. Formal investigation when directed by Secretary of State.]—(1) Where it appears to the Secretary of State that a formal investigation of any accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect:—

(a) The Secretary of State may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation:

(b) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident, and enabling the court to make the report in this section mentioned:

(c) The court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers:—

(i) power by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose; and

(ii) power to require the production of all books, papers, and documents which the court considers important for the purposes of the inquiry:

(d) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of record; and, in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of the Supreme Court, who on request, signed by the court, shall ascertain and certify the proper amount of the expenses:

(e) The court shall make a report to the Secretary of State, stating the causes and circumstances of the accident, and adding any observations which the court thinks right to make, and the Secretary of State shall cause that report to be laid in full before both Houses of Parliament:

(f) All expenses incurred in and about an investigation under this section (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act.

(2) If any person without reasonable excuse (proof whereof shall lie on him) fails to comply with any summons or requisition of the court, or impedes the court in the execution of its duty, he shall be guilty of an offence against this Act, and a person who is guilty of any such offence shall, in addition to any other fine to which he is liable under this Act, be liable to a fine not exceeding one pound for every day during which the offence continues.

84. Provisions as to coroners' inquests on deaths from accidents in mines.]—(1) Where a coroner holds an inquest on the body of any person whose death may have been caused by any accident of which notice is required by this Act to be given to the inspector of the division, the coroner shall adjourn the inquest, unless an inspector, or some person on behalf of the Secretary of State, is present to watch the proceedings.

(2) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector of the division notice in writing of the time and place of holding the adjourned inquest.

(3) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof.

(4) If an accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the division notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn.

(5) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the power of the coroner to disallow any question which, in his opinion, is not relevant or is otherwise not a proper question.

(6) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the division notice in writing of such neglect or defect.

(7) Any person having a personal interest in or employed in or about or in the management of the mine in or about which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.

(8) Any relative of any person whose death may have been caused by the accident with respect to which the inquest is being held, and the owner, agent, or manager of, or the fireman, deputy, or examiner of the district in, the mine in which the accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, and any person appointed in writing by any association of workmen to which the deceased at the time of his death belonged, or by any association of employers of which the owner is a member, or by any association to which any official or of workman employed in the mine belongs, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject nevertheless to the power of the coroner to disallow any question which, in his opinion, is not relevant or is otherwise not a proper question.

(9) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Rescue and Ambulances.

85. Rescue work and ambulances.]—General regulations made under this Act may require provision to be made at all mines or any class of mines in regard to all or any of the following matters:—

- (a) Supply and maintenance of appliances for use in rescue work and formation and training of rescue brigades;
- (b) Supply and maintenance of ambulance appliances and the training of men in ambulance work.

PART V.

REGULATIONS.

General and Special Regulations.

86. General regulations.]—(1) The Secretary of State may by order make such general regulations for the conduct and guidance of the persons acting in the management of mines or employed in or about mines as may appear best calculated to prevent dangerous accidents and to provide for the safety, health, convenience, and proper discipline of the persons employed in or about mines, and for the care and treatment of horses and other animals used therein, and any such regulations may vary or amend any of the provisions contained in Part II. of, or the Third Schedule to, this Act.

(2) The regulations made under any such order may apply either to all mines or to any specified class or description of mines, and may provide

for the exemption of any specified class or description of mines either absolutely or subject to conditions.

(3) The provisions contained in Part I. of the Second Schedule to this Act shall have effect with respect to the procedure for making orders under this section.

(4) An order made under this section shall be laid as soon as possible before both Houses of Parliament, and shall have effect as if enacted in this Act.

(5) An order made under this section may be revoked, altered, or added to by an order made in like manner and subject to the same provisions as the original order.

87. Special regulations.]—(1) Where the inspector of the division, or the owner of, or a majority ascertained by ballot of the workmen employed in, any mine is of opinion that the general regulations for the time being in force with respect to the mine ought in their application to that mine to be supplemented or modified, the inspector or the owner of such majority of workmen may transmit for the approval of the Secretary of State special regulations for the mine.

(2) The provisions set out in Part II. of the Second Schedule to this Act shall have effect with respect to the procedure for obtaining the approval of the Secretary of State.

(3) When special regulations have been approved by the Secretary of State, they shall, as respects that mine, have effect until revoked as if they formed part of the general regulations applicable to the mine.

(4) Where any special regulations are in force with respect to any mine they may be revoked, altered or added to at the instance of the inspector of the division, or of the owner of, or a majority of workmen employed in, the mine in like manner and subject to the same provisions as the original special regulations.

Publication of Abstract of Act and of Regulations.

88. Publication of abstract of Act and copy of special rules.]—(1) For the purpose of making known the provisions of this Act and the regulations of the mine to all persons employed in and about a mine, the prescribed abstract of this Act and a correct copy of all the regulations of the mine shall be published as follows:—

(a) The owner, agent, or manager of the mine shall cause a copy of the abstract and a copy of the regulations, with the name of the mine and the name and address of the inspector of the division, and the name of the owner or agent and of the manager, appended thereto, to be posted up in some conspicuous place at or near the mine, where they may be conveniently read or seen by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch:

(b) The owner, agent, or manager shall supply gratis to each person employed in or about the mine at the commencement of his employment, and on each occasion when a new abstract is issued or new regulations made, a book containing so much of the abstract and so much of the regulations as the Secretary of State may prescribe as being the parts of the abstract and regulations for the time being in force affecting persons of the class to which the person belongs, and shall also supply, at a price not exceeding one penny, to any such person who applies therefor at the office at which the persons immediately employed by the owner, agent, or manager are paid, a copy of such book:

(c) Every copy of the regulations shall be kept distinct from any regulations which depend only on the contract between the employed and employer.

(2) In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act unless he proves that he had taken all reason-

able means, by enforcing to the best of his power the observance of this section, to prevent such non-compliance.

89. Regulations applicable to mines.]—(1) The general regulations applicable to a mine, as supplemented or modified by the special regulations, if any, for the time being in force with respect to the mine shall be the regulations of the mine.

(2) An inspector shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any regulations which for the time being are in force in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) that those regulations are the regulations of the mine and of the fact that they are duly made under this Act.

90. Penalty for breach of regulations.] If any person who is bound to observe the regulations of any mine, acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act, and also the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the regulations, to prevent such contravention or non-compliance.

PART VI.

EMPLOYMENT.

Employment of Boys, Girls, and Women.

91. Prohibition against employment of boys, girls, and women below ground.] No boy under the age of fourteen years, and no girl or woman of any age, shall be employed in or allowed to be for the purpose of employment in any mine below ground. Nothing in this section shall apply to any boy who has been lawfully employed in any mine below ground before the passing of this Act.

92. Employment of boys, girls, and women above ground.] With respect to boys, girls, and women employed above ground, in connection with any mine, the following provisions shall have effect:—

(1) No boy or girl under the age of thirteen years shall be so employed, unless lawfully so employed before the passing of this Act:

(2) No boy or girl of or above the age of thirteen years and no woman shall be so employed for more than fifty-four hours in any one week or more than ten hours in any one day:

(3) No boy, girl, or woman shall be so employed between the hours of nine at night and five on the following morning, nor on Sunday, nor after two o'clock on Saturday afternoon:

(4) There shall be allowed an interval of not less than twelve hours between the termination of employment on one day, and the commencement of the next employment:

(5) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night:

(6) No boy, girl, or woman shall be employed continuously for more than five hours, without an interval of at least half an hour for a meal, nor for more than eight hours on any one day, without an interval or intervals for meals amounting altogether to not less than one hour and a half:

(7) No boy, girl, or woman shall be employed in moving railway waggons, or in lifting, carrying, or moving any thing so heavy as to be likely to cause injury to the boy, girl, or woman.

93. Notice fixing hours of employment.]—(1) The manager of every mine shall fix within the limits allowed by the foregoing section, and shall specify in a notice in the prescribed form, which must be affixed at the mine—

(a) the period of employment; and

(b) the times allowed for meals;

and no boy, girl, or woman shall be employed in connexion with any mine except during the period so fixed, but a different period and dif-

ferent times may be fixed for different persons and for different days.

(2) A change in the said period or times shall not be made oftener than once a quarter unless for special cause allowed in writing by an inspector:

Provided that provision may be made by general regulations for allowing a different time to be substituted in case of any special emergency for the time for any meal fixed under this section.

94. Register of boys, girls, and women employed.—(1) The owner, agent, or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Secretary of State may from time to time prescribe, the name, age, residence, and date of first employment of all boys employed in the mine below ground, and of all boys, girls, and women employed above ground in connexion with the mine; and shall, on request, produce the register to any inspector, and to any officer of the local education authority for the area in which the mine is situate, at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(2) The immediate employer of every boy, other than the owner, agent, or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine, or to some person appointed by that manager, that he is about to employ the boy in the mine.

95. Penalty for employment of persons in contravention of Act.—If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys, girls, or women, or to the register of boys, girls, and women, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and, in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this Act, to prevent the contravention or non-compliance.

Wages.

96. Prohibition of payment of wages in licensed premises, and provision as to weekly payment of wages.—(1) No wages shall be paid to any person employed in or about any mine at or within any licensed premises as defined by the Licensing (Consolidation) Act, 1910 [10 Edw. 7, and 1 Geo. 5, c. 24], or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

(2) The wages of all persons employed in or about any mine shall be paid weekly, if a majority of such persons so desire, and there shall be delivered to each such person a statement containing detailed particulars of how the amount paid to him is arrived at.

(3) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and, in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

PART VII.

INSPECTORS.

Appointment of Inspectors.

97. Appointment of inspectors of mines.—(1) The Secretary of State may appoint any fit persons to be inspectors (under whatever title he may from time to time fix) of mines, and assign them their duties, and may award them such salaries as the Treasury may approve and may appoint a chief inspector with an office in London, and may remove any such inspector: Provided always that, in the appointment of

inspectors of mines in Wales and Monmouthshire, among candidates otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred.

(2) Notice of the appointment of every such inspector shall be published in the London Gazette.

(3) Every such inspector is referred to in this Act as an inspector, and the inspector of a division means the inspector who is for the time being assigned to the division district or portion of the United Kingdom with reference to which the term is used.

(4) Any person who practises, or acts, or is a partner of any person who practises or acts as a land agent, or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in any difference arising between owners, agents, or managers of mines, or is a miners' agent or a mine owner (whether the mine is one to which this Act applies or not), shall not act as an inspector of mines under this Act, and no inspector shall be a partner or have any interest, direct or indirect, in any mine in the United Kingdom whether the mine is one to which this Act applies or not.

Powers and Duties of Inspectors.

98. Powers of inspectors.—(1) An inspector under this Act shall have power to do all or any of the following things; namely,

(i) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine;

(ii) to enter, inspect, and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine;

(iii) to examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of the regulations for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine, and may take with him for the last-mentioned purpose a duly qualified veterinary surgeon:

(iv) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) The owner of every mine, his agents and servants, shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry or the exercise of his powers under this Act in relation to that mine.

(3) If any person wilfully delays an inspector in the exercise of any power under this section, or fails to comply with the requisition of an inspector in pursuance of this Act, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(4) Every person who obstructs any inspector in the execution of his duty under this Act shall be guilty of an offence against this Act.

99. Notice by inspector of causes of danger not expressly provided against.—(1) If in any respect (which is not provided against by any express provision of this Act, or by any regulation) any inspector finds any mine, or any part thereof, or any matter, thing, or practice in or connected with any mine, or with the control, management, or direction thereof by the owner, agent, or manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner, agent, or manager of the mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter, thing, or practice, to be dangerous or defective, and require the same to be remedied or, if the same cannot

be remedied, require the men to be withdrawn from the mine or part; and unless the same be forthwith remedied or the men withdrawn he shall also report the same to the Secretary of State.

(2) If the owner, agent, or manager of the mine objects to remedy the matter complained of in the notice or to withdraw the men he may, within seven days after receipt of the notice, send his objection in writing, stating the grounds thereof, to the Secretary of State; and thereupon the matter shall be determined in manner provided by this Act for settling disputes.

(3) If the owner, agent, or manager fails, when no objection is sent as aforesaid, to comply with the requisition of the notice within seven days after the expiration of the time for objection, or when there has been a reference to a referee to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of the offence:

Provided that the court, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4) No person shall be precluded by any agreement from doing, or be liable to any injunction, damages, penalty or forfeiture in respect of, such acts as may be necessary in order to comply with the provisions of this section.

100. Annual reports of inspectors.—Every inspector of a division under this Act shall make an annual report of his proceedings during the preceding year to the Secretary of State, which report shall be laid before both Houses of Parliament; and the chief inspector shall make to the Secretary of State an annual report of the proceedings under this Act during the preceding year, and the report of the chief inspector shall be laid before both Houses of Parliament.

PART VIII.

SUPPLEMENTAL.

Legal Proceedings.

101. Penalty for offences against Act.—(1) Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of any act or omission which in the case of an owner, agent, or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

(2) If a mine is not managed in conformity with this Act, the owner, agent, and manager thereof shall each be deemed to be guilty of an offence against this Act.

(3) Every person who is guilty of an offence against this Act for which a penalty is not expressly provided, shall be liable to a fine not exceeding, if he is an owner, agent, or manager, or under-manager, twenty pounds, and, if he is any other person, five pounds, for each offence; and, if an inspector has given written notice of any such offence, to a further fine not exceeding one pound for every day after such notice that such offence continues to be committed.

(4) Where a person is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was likely to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the person, or personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding three months.

102. Prosecutions of owners, agents, managers, &c.—(1) Where proceedings are taken under this Act against the owner or agent of a mine in respect of an offence under this Act for which the owner, agent, or manager or each of them is liable under this Act, the owner or agent shall

not be liable to any penalty if he proves to the satisfaction of the court—

- (a) that he was not in the habit of taking and did not in respect of the matters in question take any part in the management of the mine; and
- (b) that he had made all the financial and other provision necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent, or connivance.

(2) Save as above provided, it shall not be a defence in any proceedings brought against the owner or agent of a mine under this Act in respect of such an offence as aforesaid that a manager of the mine has been appointed in accordance with this Act.

(3) Nothing in this Act shall render the owner, agent, or manager of a mine liable to a penalty in respect of any contravention of or non-compliance with the provisions of this Act, if he proves that the contravention or non-compliance was due to causes over which he had no control and against the happening of which it was impracticable for him to make provision.

(4) Nothing in this section shall be construed as preventing proceedings being instituted, in the first instance, against the manager for any offence for which the manager of the mine is liable under this Act.

(5) No prosecution shall be instituted against the owner, agent, manager, or under-manager of a mine for any offence under this Act, not committed personally by such owner, agent, manager, or under-manager, which can be prosecuted before a court of summary jurisdiction, except by an inspector with the consent in writing of the Secretary of State; and in the case of any offence of which the owner, agent, manager or under-manager of a mine is not guilty if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner, agent, manager, or under-manager, if satisfied that he had taken such reasonable means as aforesaid.

(6) A prosecution shall not be instituted against a coroner for any offence under this Act except with the consent in writing of the Secretary of State.

(7) If a boy or girl was employed on the representation of his or her parent or guardian that he or she was of an age at which his or her employment would not be in contravention of this Act, and under the belief in good faith that he or she was of that age, or if a person has been employed in any capacity or in any manner on his representation that he fulfilled the conditions as to age, experience, and otherwise necessary for such employment, and under the belief in good faith that such representation was true, the owner, agent, or manager of the mine and employer shall be exempted from any penalty, and the parent or guardian or the person making such representation, as the case may be, shall in respect of the misrepresentation be guilty of an offence against this Act.

(8) The owner of a mine shall not be liable to an action for damages as for breach of statutory duty in respect of any contravention of or non-compliance with any of the provisions of this Act if it is shown that it was not reasonably practicable to avoid or prevent the breach.

103. Summary proceedings for offences, &c.]—

(1) All offences under this Act not declared to be misdemeanours, and all fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts:

Provided that—

- (i) It shall be sufficient to allege that the mine is a mine within the meaning of this Act, without more;
- (ii) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

(2) Where proceedings are taken before a court of summary jurisdiction in respect of an offence against this Act alleged to have been committed in or with reference to a mine, a person who is the owner, agent, or manager of any mine, or a

person employed in a mine, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of such owner, agent, manager, or person, or who is an officer of any association of persons so employed, or who is a checkweigher appointed under the Coal Mines Regulation Acts 1887 to 1905, or who is a director of a company which is the owner of a mine, shall not, except with the consent of both parties to the case, act as a member of the court.

104. *Appeal to quarter sessions.*—If any person feels aggrieved by any summary conviction under this Act by which imprisonment or a fine amounting to or exceeding one half the maximum fine, is adjudged, he may appeal therefrom to quarter sessions.

105. *Application of fines.*—(1) Where a fine is imposed under this Act for neglecting to send a notice of any accident or for any offence against this Act which has occasioned loss of life or personal injury, the Secretary of State may (if he thinks fit) direct such fine to be paid to or distributed among the persons injured, and the relatives of any persons whose death may have been occasioned by the accident, or offence, or among some of them:

Provided that—

- (i) Such persons did not, in his opinion, occasion or contribute to occasion the accident, and did not commit and were not parties to committing the offence;
- (ii) The fact of the payment or distribution shall not, in any way, affect or be receivable as evidence in any legal proceeding relative to or consequential on the accident or offence.

(2) Save as aforesaid—

All fines recovered in England or Scotland under this Act shall be paid into the Exchequer;

All fines recovered in Ireland under this Act shall be applied in manner directed by the Fines Act (Ireland), 1851 [14 & 15 Vict. c. 90], and any Act amending the same.

106. *Report of result of proceedings against workmen.*—Where the owner, agent, or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence against this Act, he shall, within twenty-one days after the hearing of the case, report the result thereof to the inspector of the division.

107. *Power to prohibit working of mine in which there is a contravention of the provisions of Part II.*—(1) The High Court, whether any other proceedings have or have not been taken, may, on the application of the Attorney-General, prohibit by injunction the working of any mine or any part of a mine in which there is such a contravention or non-compliance with the provisions of this Act, or the general regulations made thereunder, as appears to the Court calculated to endanger the safety of persons employed in the mine or part, and may award such costs in the matter as the Court think just, but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(2) Written notice of the intention to apply for such injunction in respect of any mine or part of a mine shall be given to the owner, agent or manager of the mine not less than ten days before the application is made.

108. *Prohibition of use of dangerous machinery.*—A court of summary jurisdiction may, on complaint by an inspector, and on being satisfied that any part of the machinery or plant used in a mine (including a steam boiler used for generating steam) is in such a condition or so placed that it cannot be used without danger to life or limb, prohibit its use, or, if it is capable of repair or alteration, prohibit its use until it is duly repaired or altered.

Miscellaneous.

109. *Protection of animals in mines.*—(1) The regulations contained in the Third Schedule to this Act (which relate to the care and treatment of horses and other animals in mines) shall be observed in every mine.

(2) Any person who acts in contravention of or fails to comply with any of those regulations shall be guilty of an offence against this Act, and, in the event of any contravention of or non-compliance with any of those regulations by any person whatsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act unless he proves that he has taken all reasonable means, by publishing and to the best of his power enforcing those regulations, to prevent that contravention or non-compliance.

(3) The Secretary of State shall appoint fit persons to be special inspectors for the purpose of examining into the care and treatment of the horses and other animals used in mines, and of enforcing the provisions of this Act relating to horses and other animals, and any person appointed as a special inspector under this provision shall so far as necessary for the exercise of his powers and the performance of his duties as such inspector have the same powers as are given to and be subject to the same obligations and restrictions as inspectors of mines under the foregoing provisions of this Act, and the provisions of this Act relating to the obstruction of inspectors shall apply as if references to inspectors included references to special inspectors.

110. Application of Workmen's Compensation Act in case of men being trained for or engaged in rescue work.]—

(1) Where provision has been made in pursuance of regulations under this Act, or under any order which has effect as if made under this Act, for the formation or training of a rescue brigade, any accident caused to a workman employed in or about a mine who is with the consent of his employer being trained as a member of the rescue brigade, and arising out of and in the course of his training, shall, for the purposes of the Workmen's Compensation Act, 1906 [6 Edw. 7. c. 58], be deemed to arise out of and in the course of his employment in the mine.

(2) Any workmen engaged in any rescue work or ambulance work at a mine shall, for the purposes of the Workmen's Compensation Act, 1906, be deemed while so engaged to be employed by the owner of the mine.

111. Application of certain provisions to railway sidings.]—

(1) Where any line or siding, not being part of a railway within the meaning of the Railway Employment (Prevention of Accidents) Act, 1900 [63 & 64 Vict. c. 27], is used in connexion with a mine the provisions of this Act with respect to—

(a) returns and notification of accidents; and

(b) general and special regulations: shall have effect as if the line or siding were part of the mine, but, as respects such returns and notification of accidents, shall apply only in the case of accidents to persons employed by or on behalf of the owner of the mine.

(2) If any such line or siding is used in connexion with more than one mine belonging to different owners, the foregoing provisions shall have effect as if the line or siding were a separate mine.

112. *Payment of salaries and expenses.*—The salary and remuneration of inspectors and examiners under this Act and all other expenses incurred by the Secretary of State in the execution of this Act, to such an amount as may be sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

113. *Power of Secretary of State to determine questions.*—If any question arises (otherwise than in legal proceedings) whether a mine is a mine to which this Act or the Metalliferous Mines Regulation Acts, 1872 and 1875 [35 & 36 Vict. c. 77, 38 & 39 Vict. c. 39], apply, the question shall be referred to the Secretary of State, whose decision thereon shall be final.

114. *Powers of Secretary of State as to making and revoking orders.*—Any order of, or any exemption granted by, the Secretary of State under this Act may be from time to time revoked or altered by the Secretary of State, either unconditionally or subject to such conditions as he may see fit, and shall be signed by the Secretary

of State or an under secretary or assistant under secretary.

115. Power of Secretary of State to purchase land.—(1) The Secretary of State may purchase and hold land (including any easements in or over land) in the United Kingdom for the purpose of any experiments or tests which he may think it desirable to carry out in connexion with matters relating to the safety or health of persons employed in or about mines.

(2) For the purpose of the purchase of land under this section, sections two and twenty of the Military Lands Act, 1892 [55 & 56 Vict., c. 43], as amended by the Military Lands Act, 1900 [63 & 64 Vict., c. 56], shall apply as they apply for the purpose of the purchase of land by the Secretary of State under that Act as so amended.

116. Manner of settling disputes.—Any matter which under this Act is to be settled in manner provided by this Act for settling disputes shall be referred to such one of the panel of referees appointed under this Act as may be selected in manner provided by rules made for the purpose, and the decision of the referee shall be final:

Provided that no such matter shall be so referred, unless the party making the objection or refusing compliance has served notice on the other party within the prescribed time and in the prescribed manner, and all objections not made within such time and in such manner shall be disregarded.

117. Appointment of referees.—(1) Such number of persons as may be appointed by the reference committee hereinafter mentioned shall form a panel of persons to act as referees for the purposes of this Act.

(2) The reference committee may make rules as to the mode in which the referee in any particular case is to be selected, the procedure before a referee, and the cost of the proceedings before a referee (including the remuneration of the referee).

(3) The reference committee shall consist of the Lord Chief Justice of England, the Lord President of the Court of Session and such person specially qualified by eminence in mining knowledge as the Lord Chief Justice and the Lord President may select.

118. Procedure for ascertaining views of workmen.—The Secretary of State may make rules prescribing the procedure to be observed for ascertaining and certifying the views of the workmen, or any part of the workmen, in any mine, or any class of mines, in any case where those views are required to be ascertained for any of the purposes of this Act.

119. Provisions as to exemptions granted by inspectors.—Any exemption granted by the inspector of a division under this Act shall be in writing and signed by him. Any such exemption may—

- (a) be granted either absolutely or subject to such restrictions and conditions as the inspector thinks fit to impose;
- (b) be revoked at any time by the inspector of the division for the time being.

120. Service of notices.—All notices under this Act shall be in writing and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served or sent by post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

121. Pulling down or defacing notices.—Every person who pulls down, injures, or defaces any abstract, notice, summary, proposed regulations, or regulations, when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the regulations of the mine, shall be guilty of an offence against this Act.

122. Interpretation.—In this Act, unless the context otherwise requires,—

"Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes,

works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine, but does not include any part of such premises on which any manufacturing process is carried on other than a process ancillary to the getting, dressing or preparation for sale of minerals:

"Main airway" means an airway commencing from, or terminating at, a shaft or outlet to the surface, or any airway from which a split is taken to ventilate any district of the mine, or into which a split so taken returns:

"Ventilating district" means any part of a seam having an independent intake airway commencing from a main intake airway and an independent return airway terminating at a main return airway:

"Office at the mine" means an office on the surface of the mine:

"Small mine" means a mine in which the total number of persons employed below ground does not exceed thirty:

"Owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine, or of any part thereof, and in the case of a mine the business whereof is carried on by a liquidator or receiver includes such liquidator or receiver, but does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability:

"Agent," when used in relation to any mine, means any person appointed or acting as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act:

"Prescribed" means prescribed by the Secretary of State:

"Boy" means a male under the age of sixteen years:

"Girl" means a female under the age of sixteen years:

"Woman" means a female of the age of sixteen years or upwards.

123. Saving for existing managers, firemen, and owners and agents.—Nothing in this Act shall—

- (a) prevent any person who is less than twenty-five years of age from acting as manager of a mine, if he was lawfully so acting at the date of the passing of this Act; or
- (b) prevent any person acting as a fireman, examiner, or deputy, notwithstanding that he—

(i) neither is the holder of a first or second-class certificate of competency under this Act, nor is twenty-five years of age or upwards and has had at least five years' practical experience underground in a mine; or

(ii) has not obtained a certificate of his ability to measure the quantity of air in an air current, if he was employed as a fireman, examiner, or deputy at the date of the passing of this Act;

- (c) prevent any owner or agent of a mine taking part in the technical management of the mine, notwithstanding that he is not qualified under this Act to be a manager, if he was taking part in the technical management of the mine at the time of the passing of this Act.

124. Application to Scotland.—This Act shall apply to Scotland subject to the following modifications:—

- (1) "Attorney-General" means Lord Advocate; "information" means complaint; "summons" means citation; "High Court" means Court of Session; "injunction" means interdict; "county court" means sheriff court; "local education authority" means school board; "licensed premises as defined by the Licensing (Consolidation) Act, 1910," means certificated premises within the meaning of the Licensing (Scotland) Act, 1903 [3 Edw. 7, c. 25]; "section ninety-one of the Public Health Act, 1875," means section sixteen of the Public Health (Scotland) Act, 1897 [60 & 61 Vict., c. 38]; "receiver" includes a trustee in bankruptcy; "attending on supena before a court of record" means attending on citation the High Court of Justiciary, and any reference to a Court of Record shall be construed accordingly; "master of the Supreme Court" means auditor of the sheriff court; "county court judge" means sheriff; "London Gazette" means "Edinburgh Gazette";
- (2) The provision relating to an appeal to quarter sessions shall not apply.

125. Application to Ireland.—This Act shall apply to Ireland subject to the following modifications:—

- (1) In hearing and determining a charge under this Act, a court of summary jurisdiction elsewhere than in the Dublin metropolitan police district shall be constituted of two or more justices of the peace or of a resident magistrate, with or without other justices, sitting in petty sessions; and a resident magistrate means a magistrate appointed pursuant to the Constabulary (Ireland) Act, 1836 [6 & 7 Will. 4, c. 36];
- (2) Section one hundred and seven of the Public Health (Ireland) Act, 1878 [41 & 42 Vict., c. 52], shall be substituted for section ninety-one of the Public Health Act, 1875.
- (3) "Police or stipendiary magistrate" means resident magistrate; "master of the Supreme Court" means a taxing master of the High Court of Justice in Ireland; "London Gazette" means Dublin Gazette; "Attorney-General" means Attorney-General for Ireland;
- (4) The Licensing Act, 1872 [35 & 36 Vict. c. 94], shall be substituted for the Licensing (Consolidation) Act, 1910.

126. Repeal.—The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule:

Provided that—

- (a) Nothing in this repeal shall affect any order made by the Secretary of State or any certificate of competency or of service granted, or having effect as if granted, under any enactment repealed by this Act which is in force immediately before the commencement of this Act, but every such order and certificate shall have effect as if made or granted under this Act: and the register of holders of certificates, and the other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed, shall be deemed to be registers or parts of registers kept in pursuance of this Act;
- (b) Nothing in this repeal shall affect any special rules which at the commencement of this Act are in force under any Act hereby repealed in any mine, but such rules shall, until regulations affecting the mine and revoking such rules have been made under this Act, have effect as if they were the regulations of the mine under this Act;
- (c) Nothing in this repeal shall affect the tenure of office of any inspector appointed under any enactment repealed by this Act.

- (d) Any document referring to any Act repealed by this Act, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactments thereof:
- (e) This Act shall apply to offences under such of the provisions of the Coal Mines Regulation Acts, 1887 to 1908, as are unrepealed by this Act in like manner as if they were offences against this Act, and expressions in those provisions shall have the same meaning as in this Act.

127. Short title and commencement.]—(1) This Act may be cited as the Coal Mines Act, 1911.

(2) This Act shall, except as otherwise provided, come into operation on the first day of July nineteen hundred and twelve.

SCHEDULES.

Sections 18 and 22.

FIRST SCHEDULE.

FORM OF ANNUAL RETURN.

[This Schedule contains forms of the annual return to be filled up by the owner, agent, or manager, and sent to the Inspector of the Division on or before 21st January in every year; also the particulars of ventilation, and particulars of explosives, coal-cutting machines, conveyors and safety lamps used during the year, and as to safety lamps, and as to type and aggregate horse-power of electrical apparatus.]

SECOND SCHEDULE.

Sections 86 and 87.

PART I.

PROCEDURE FOR MAKING GENERAL REGULATIONS.

(1) Before the Secretary of State makes an order he shall publish in such manner as he may think best adapted for informing persons affected, notice of the proposal to make the order and of the place where copies of the draft order may be obtained, and of the time (which shall not be less than thirty days) within which any objections made with respect to the draft order by or on behalf of persons affected must be sent to the Secretary of State.

(2) Every objection must be in writing and state—

- (a) the specific grounds of objection;
- (b) the omissions, additions, or modifications asked for.

(3) The Secretary of State shall consider any objection made by or on behalf of any persons appearing to him to be affected which is sent to him within the required time, and he may, if he thinks fit, amend the draft order, and the foregoing provisions shall apply to the amended draft in like manner as they apply to the original draft.

(4) If after the publication of the notice with respect to any such draft order (whether an original or amended draft), any general objection as hereinafter defined is made within the required time with respect to the draft and not withdrawn, the order shall not be made by the Secretary of State until that objection has been referred to such one of the panel of referees appointed under this Act as may be selected in manner provided by the rules made for the purpose.

If on any such reference the referee considers that the draft order should be varied to meet the objection, he shall recommend any variation which he considers necessary or expedient, and effect shall be given to those recommendations in the order, if made.

(5) The reference committee may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors to the referee.

(6) If the Secretary of State considers that any objection, though not a general objection, is of such a character that it is desirable to refer it to a referee, he may so refer it, and in that case the foregoing provisions shall apply as in the case of a general objection.

(7) If any objection, though not a general objection, is made on behalf of the owners of

mines of any particular class or mines in any separate area, and it is alleged in the objection that having regard to the special natural conditions or special methods of working in mines of that class or mines in that area the proposed regulations ought not to apply to those mines, the Secretary of State shall, unless he is of opinion that the objection is frivolous, refer it to a referee, and in that case the foregoing provisions shall apply as in the case of a general objection.

(8) For the purposes of this section a "general objection" means an objection made either by or on behalf of owners of mines employing not less than one-third of the total number of men employed at the mines affected by the proposed order, or, if the order contains different provisions for different classes of mines, of the total number of men employed in any such class of mines, or by or on behalf of not less than one-third of the total number of men so employed.

The number of men employed shall be calculated in accordance with the returns for the last preceding year sent by owners of mines to the inspectors in pursuance of the provisions of this Act.

PART II.

PROCEDURE IN CASE OF SPECIAL REGULATIONS SENT TO SECRETARY OF STATE FOR APPROVAL.

(1) Where any special regulations have been sent under this Act to the Secretary of State for approval he shall consider the regulations and either approve or disapprove the same.

Where the Secretary of State disapproves the special regulations, no further action shall be taken in the matter.

Before the Secretary of State approves the special regulations there shall be published, in such manner as he may think best adapted for informing persons affected, notice of the proposal to make the regulations and of the place where copies of the draft regulations may be obtained and of the time (which shall not be less than thirty days) in which any objections with respect to the draft regulations made by or on behalf of persons affected must be sent to the Secretary of State.

(2) Every objection must be in writing and state—

- (a) the specific grounds of objection;
- (b) the omissions, additions, or modifications asked for.

(3) The Secretary of State shall consider any objection made by or on behalf of persons appearing to him to be affected which is sent to him within the required time, and he may, before approving the special regulations, require such amendments to be made therein as he may think fit.

(4) If the owner or a majority of workmen who have sent any objection to any special regulations sent for approval feel aggrieved by the refusal of the Secretary of State to give effect to their objection; the objection shall be referred to such one of the panel of referees appointed under this Act as may be selected in manner provided by the rules made for the purpose.

If, on any such reference, the referee considers that the regulations should be varied to meet the objection, he shall recommend any variation which he considers necessary or expedient, and the Secretary of State, before approving the regulations, shall require that variation to be made.

THIRD SCHEDULE.

Sections 86 and 109.

1. No horse shall be taken underground until it is four years old and until it has been tested by a duly qualified veterinary surgeon in the prescribed manner and certified to be free from glanders.

2. All horses underground shall, when not at work, be housed in properly-constructed stables, and in stalls of adequate size.

3. All stables in use shall be separated from any road used for travelling or haulage of mine-

rals, and shall be continuously and thoroughly ventilated with intake air, and cleaned daily and kept in a sanitary condition, and all roofs, walls, and partitions of any stables shall, unless painted or made of slate, tiles, glazed brick or iron, be limewashed at least once in every three months.

4. Competent persons, hereinafter referred to as "horse-keepers," shall be appointed in writing by the manager to have the care of the horses used underground while in the stables, and of the stables, in the proportion of at least one horse-keeper to every fifteen horses.

5. A sufficient supply of wholesome food and pure water shall be provided daily for every horse while in the stable and while at work.

6. A sufficient supply of suitable medicines, ointments, and dressings, and a suitable appliance or appliances for the destruction of horses requiring to be destroyed, shall be provided and kept readily available for use.

7. No horse shall be worked, or allowed by the horse-keeper to go out to work, in an unfit condition, or improperly shod, or otherwise than with harness properly fitting and in good condition, including a guard for the eyes.

8. The driver having charge of any horse shall remain in charge of the horse during the whole time that it is at work in his shift, and, unless otherwise ordered, shall at the end of the shift return the horse to the horse-keeper at the stable.

9. No blind horse shall be worked in a mine.

10. The driver having charge of any horse shall at once report to the official under whose direction he works any injury to or overworking of the horse or any insufficiency in the supply of food or water, and any case in which the horse or harness rubs against the roof or sides, or in which the harness is defective.

11. The horse-keeper shall, as soon as practicable after the return of any horse to the stable, examine the horse and its harness, attend to any injury to the horse, and clean and groom it himself, or cause it to be cleaned and groomed.

12. Every official under whose direction the driver of any horse works and every horse-keeper shall at once report to the manager or under-manager any case of sickness in or injury to or any marks of ill-treatment on or any overworking of any horse coming to his notice, and any defect in the harness likely to cause pain or injury to the horse, and no horse with respect to which any such report is made shall be allowed to go out to work until authority in that behalf is given by the manager or under-manager.

13. Every horse-keeper shall keep a record in a book to be kept at the mine of all horses under his care, and shall make a daily report therein as to the condition of each horse, the driver in whose charge it has been, the time at which it was taken from the stables, and the time at which it was returned thereto.

14. Every book kept by a horse-keeper under the foregoing provisions of this schedule shall be open to inspection by any special inspector.

15. The manager shall, by himself or by some competent person appointed by him for the purpose, exercise such personal supervision over all horse-keepers, drivers, and other persons employed in connection with the horses used in the mine as is necessary to secure that the provisions of this Act relating to the care and treatment of horses in mines are observed in the mine.

16. The owner, agent or manager shall, as part of the return required to be made annually to the inspector of the division, furnish a statement showing the number of horses used in the mine, the number which have died during the year from injury by accident or from disease, or which required to be destroyed in consequence of injury or disease, and the number of other cases of injury or ill-treatment reported to the manager under the provisions of this schedule.

17. In this schedule the expression "horse" includes pony, mule, and donkey.

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

[Section 126.]

Session and Chapter.	Short Title.	Extent of Repeal.
50 & 51 Vict. c. 58.	The Coal Mines Regulation Act, 1887.	The whole Act, except sections one, three, twelve, thirteen, fourteen, and fifteen.
50 & 60 Vict. c. 43.	The Coal Mines Regulation Act, 1896.	The whole Act
63 & 64 Vict. c. 21.	The Mines (Prohibition of Child Labour Underground) Act, 1900.	The whole Act so far as it relates to mines to which this Act applies.
3 Edw. 7, c. 7.	The Coal Mines Regulation Act (1887) Amendment Act, 1903.	The whole Act
6 Edw. 7, c. 53.	The Notice of Accidents Act, 1906	Sections one, two, three, and five so far as they relate to mines to which this Act applies.
7 Edw. 7, c. 19.	The Employment of Women Act, 1907.	Section one, so far as it relates to the Coal Mines Regulation Act, 1887.
10 Edw. 7 and 1 Geo. 5, c. 15.	The Mines Accidents (Rescue and Aid) Act, 1910.	The whole Act so far as it relates to mines to which this Act applies.

CHAPTER 51.

[BURGH POLICE (SCOTLAND) AMENDMENT ACT, 1911.]

An Act to amend the Burgh Police (Scotland) Acts so as to provide for the further Regulation of Places for Public Refreshment in Scotland. [16th December 1911.]

CHAPTER 52.

[RAG FLOCK ACT, 1911.]

An Act to prohibit the sale and use for the purpose of the manufacture of certain articles of unclean Flock manufactured from Rags. [16th December 1911.]

Be it enacted, &c. :—

1. *Prohibition of sale and use for the purpose of the manufacture of certain articles of unclean flock manufactured from rags.*—(1) It shall not be lawful for any person to sell or have in his possession for sale flock manufactured from rags or to use for the purpose of making any article of upholstery, cushions, or bedding flock manufactured from rags or to have in his possession flock manufactured from rags intended to be used for any such purpose, unless the flock conforms to such standard of cleanliness as may be prescribed by regulations to be made by the Local Government Board, and, if any person sells or uses or has in his possession flock in contravention of this Act, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, or in the case of a second or subsequent offence fifty pounds.

(2) All regulations made by the Local Government Board under this Act shall be laid before Parliament as soon as may be after they are made, and the Rules Publication Act, 1893 [56 & 57 Vict., c. 66], shall apply to such regulations as if they were statutory rules within the meaning of section one of that Act.

(3) Where, in any proceedings against a person charged with an offence under this Act, it is proved that an offence under this Act has been committed, but that the person charged with the offence—

(a) purchased the flock in respect of which the offence was committed from a person resident within the United Kingdom who sold the flock under a warranty that it complied with the prescribed standard of cleanliness; and

(b) took reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty; the person so charged shall be entitled upon an information duly laid by him to have the person who gave the warranty brought before the court, and that person may be summarily convicted of the offence, and the person originally charged shall be exempt from any fine, and the person so convicted shall, in the discretion of the court, also be liable to pay any costs incidental to the proceedings.

(4) Where a person is charged with having flock in his possession in contravention of this Act any flock proved in the proceedings to have been found in his possession shall be deemed to be intended for sale or for use in the manufacture of such articles as aforesaid, unless the contrary is proved.

(5) It shall be the duty of a sanitary authority to enforce the provisions of this Act within their district, and for that purpose the medical officer of health, the inspector of nuisances or sanitary inspector, or any other officer whom the sanitary authority may appoint, shall have power, if so authorised by the sanitary authority, to institute and carry on any proceedings which the sanitary authority is authorised to institute and carry on under this Act, and to enter at all reasonable times any premises in which he has reasonable cause to believe that an offence under this Act is being committed, and to examine and take samples for the purposes of analysis of any flock found therein:

Provided that, where a sample is so taken, the occupier of the premises may require the officer taking the sample to divide it into two parts and to mark, seal, and deliver to him one part.

If any person wilfully obstructs any such officer in the execution of his powers under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

(6) The expenses of sanitary authorities under this Act shall be defrayed—

(a) in the case of the mayor, aldermen and commons of the city of London in common council assembled, out of the general rate;

(b) in the case of the council of a metropolitan borough, as part of the expenses incurred by the council in the execution of the Public Health (London) Act, 1891 [54 & 55 Vict., c. 76].

(c) in the case of any other sanitary authority, namely the council of a municipal borough or urban or rural district, as part of the general expenses incurred in the execution of the Public Health Acts.

(7) All fines imposed in any proceedings instituted by a sanitary authority in pursuance of their powers and duties under this Act shall be paid to the sanitary authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

(8) This Act shall apply to Scotland with the following modifications :—

(a) The expression "Local Government Board" means the Local Government Board for Scotland; the expression "sanitary authority" means the local authority under the Public Health (Scotland) Act, 1897 [60 & 61 Vict., c. 38]; and the expression "inspector of nuisances" means sanitary inspector;

(b) The provision respecting the Rules Publication Act, 1893, shall have effect as if section one of that Act applied to Scotland with the substitution of the "Edinburgh Gazette" for the "London Gazette";

(c) The expenses of a local authority under this Act shall be defrayed out of the public health general assessment levied under the Public Health (Scotland) Act, 1897.

(9) This Act shall apply to Ireland with the following modifications :—

(a) The Local Government Board for Ireland shall be substituted for the Local Government Board;

(b) The Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for the Public Health Acts; and

(c) The expression "medical officer of health" shall include a medical superintendent officer of health.

2. *Short title and commencement.* This Act may be cited as the Rag Flock Act, 1911, and shall come into operation on the first day of July nineteen hundred and twelve.

CHAPTER 53.

[HOUSE LETTING AND RATING (SCOTLAND) ACT, 1911.]

An Act to amend the Law as to the Letting and Rating of small Dwelling-houses in Scotland; and for other purposes relating thereto. [16th December 1911.]

CHAPTER 54.

[SHOPS ACT, 1911.]

An Act to amend and extend the Shops Regulation Acts, 1892 to 1904.

[16th December 1911.]

Be it enacted &c. :

1. *Hours of employment and meal times.*—(1) On at least one week-day in each week a shop assistant shall not be employed about the business of a shop after half-past one o'clock in the afternoon:

Provided that this provision shall not apply to the week preceding a bank holiday if the shop assistant is not employed on the bank holiday, and if on one week-day in the following week in addition to the bank holiday, the employment of the shop assistant ceases not later than half-past one o'clock in the afternoon.

(2) Intervals for meals shall be allowed to each shop assistant in accordance with the first schedule to this Act.

(3) The occupier of a shop shall fix, and shall specify in a notice in the prescribed form, which must be affixed in the shop in such manner and at such time as may be prescribed, the day of the week on which his shop assistants are not employed after half-past one o'clock, and may fix different days for different shop assistants.

2. *Closing of shops on weekly half-holiday.*

—(1) Every shop shall, save as otherwise provided by this Act, be closed for the serving of customers not later than one o'clock in the afternoon on one week-day in every week.

(2) The local authority may, by order, fix the day on which a shop is to be so closed (in this Act referred to as the weekly half-holiday), and any such order may either fix the same day for all shops, or may fix—

(a) different days for different classes of shops; or

(b) different days for different parts of the district; or

(c) different days for different periods of the year:

Provided that—

(1) where the day fixed is a day other than Saturday, the order shall provide for enabling Saturday to be substituted for such other day; and

(2) where the day fixed is Saturday, the order shall provide for enabling some other day specified in the order to be substituted for Saturday;

as respects any shop in which notice to that effect is affixed by the occupier, and that no such order shall be made unless the local authority, after making such inquiry as may be prescribed, are satisfied that the occupiers of a

majority of each of the several classes of shops affected by the order approve the order.

(3) Unless and until such an order is made affecting a shop, the weekly half-holiday as respects the shop shall be such day as the occupier may specify in a notice affixed in the shop, but it shall not be lawful for the occupier of the shop to change the day oftener than once in any period of three months.

(4) Where the local authority have reason to believe that a majority of the occupiers of shops of any particular class in any area are in favour of being exempted from the provisions of this section, either wholly or by fixing as the closing hour, instead of one o'clock, some other hour not later than two o'clock, the local authority, unless they consider that the area in question is unreasonably small, shall take steps to ascertain the wishes of such occupiers, and, if they are satisfied that a majority of the occupiers of such shops are in favour of the exemption, or, in the case of a vote being taken, that at least one half of the votes recorded by the occupiers of shops within the area of the class in question are in favour of the exemption, the local authority shall make an order exempting the shops of that class within the area from the provisions of this section either wholly or to such extent as aforesaid.

(5) Where a shop is closed during the whole day on the occasion of a bank holiday, and that day is not the day fixed for the weekly half-holiday, it shall be lawful for the occupier of the shop to keep the shop open for the serving of customers after the hour at which it is required under this section to be closed either on the half-holiday immediately preceding, or on the half-holiday immediately succeeding, the bank holiday.

(6) This section shall not apply to any shop in which a trade or business of any class mentioned in the second schedule to this Act is carried on, but the local authority may, by order made and revocable in like manner as closing orders, extend the provisions of this section to shops of any class exempted under this provision if satisfied that the occupiers of at least two-thirds of the shops of that class approve the order.

(7) The power under the Shop Hours Act, 1904 [4 Edw. 7, c. 31], to fix a closing hour earlier than seven o'clock, shall cease to have effect, and any closing order which is in force at the commencement of this Act shall cease to have effect in so far as it fixes an hour earlier than seven o'clock for any shop to which this section applies.

3. Local inquiries for the purpose of promoting and facilitating early closing.—(1) Where it appears to the Secretary of State, on the representation of the local authority or a joint representation from a substantial number of occupiers of shops and shop assistants in the area of the local authority, that it is expedient to ascertain the extent to which there is a demand for early closing in any locality, and to promote and facilitate the making of a closing order therein, the Secretary of State may appoint a competent person to hold a local inquiry.

(2) If, after holding such an inquiry and conferring with the local authority, it appears to the person holding the inquiry that it is expedient that a closing order should be made, he shall prepare a draft order, and submit it to the Secretary of State, together with his report thereon.

(3) If the Secretary of State, after considering the draft order and report, and any representations which the local authority may have made in respect thereof, is of opinion that it is desirable that a closing order should be made, he may communicate his decision to the local authority, and thereupon there shall be deemed to be a *prima-facie* case for making a closing order in accordance with the terms of the draft order, subject to such modifications (if any) as the Secretary of State may think fit.

(4) The person who held the inquiry shall, if so directed by the Secretary of State on the application of the local authority, assist and

co-operate with the local authority in taking the steps preliminary to making the order.

(5) The remuneration of persons holding local inquiries under this section, and all other expenses incurred by the Secretary of State under this Act, to such an amount as may be sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

4. Provisions as to trading elsewhere than in shops.—Subject to any provisions contained in a closing order, it shall not be lawful in any locality to carry on in any place not being a shop retail trade or business of any class at any time when it would be unlawful in that locality to keep a shop open for the purposes of retail trade or business of that class, and, if any person carries on any trade or business in contravention of this section, the Shops Regulation Acts, 1892 to 1911, shall apply as if he were the occupier of a shop and the shop were being kept open in contravention of those Acts:

Provided that—

(a) nothing in this section shall be construed as preventing a barber or hairdresser from attending a customer in the customer's residence, or the holding of an auction sale of private effects in a private dwelling-house; and

(b) nothing in this section shall apply to the sale of newspapers.

5. Provisions as respects shops where more than one business is carried on.—(1) Where several trades or businesses are carried on in the same shop, and any of those trades or businesses is of such a nature that, if it were the only trade or business carried on in the shop, the shop would be exempt from the obligation to be closed on the weekly half-holiday, the exemption shall apply to the shop so far as the carrying on of that trade or business is concerned, subject, however, to such conditions as may be prescribed.

(2) Where several trades or businesses are carried on in the same shop, the local authority may require the occupier of the shop to specify which trade or business he considers to be his principal trade or business, and no trade or business other than that so specified shall, for the purpose of determining a majority under the Shops Regulation Acts, 1892 to 1911, be considered as carried on in the shop, unless the occupier of the shop satisfies the local authority that it forms a substantial part of the business carried on in the shop.

6. Special provisions as to holiday resorts.—(1) In places frequented as holiday resorts during certain seasons of the year the local authority may by order suspend for such period or periods as may be specified in the order, not exceeding in the aggregate four months in any year, the obligation imposed by this Act to close shops on the weekly half-holiday.

(2) Where the occupier of any shop to which any such order of suspension applies satisfies the local authority that it is the practice to allow all his shop assistants a holiday on full pay of not less than two weeks in every year, and keeps affixed in his shop a notice to that effect, the requirement that on one day in each week a shop assistant shall not be employed after half-past one o'clock shall not apply to the shop during such period or periods as aforesaid.

7. Powers and duties of local authorities.—

(1) It shall be the duty of every local authority to enforce within their district the provisions of the Shops Regulation Acts, 1892 to 1911, and of the orders made thereunder, and for that purpose to institute and carry on such proceedings in respect of failures to comply with or contraventions of those Acts and the orders made thereunder as may be necessary to secure the observance thereof, and to appoint inspectors; and an inspector so appointed shall, for the purposes of his powers and duties, have in relation to shops all the powers conferred in relation to factories and workshops on inspectors by section one hundred and nineteen of the Factory and Workshop Act, 1901 (1 Edw. 7, c. 22), and that section and section one hundred and twenty-one of the same Act shall apply accordingly; and an inspec-

tor may, if so authorised by the local authority, institute and carry on any proceedings under this Act on behalf of the authority.

(2) In this Act the expression "local authority" means—

as respects the city of London, the common council;

as respects any municipal borough, the council of the borough;

as respects any urban district with a population according to the returns of the last published census for the time being of twenty thousand or upwards, the district council; elsewhere, the county council;

and the same local authorities shall be the local authorities for the purposes of the Shop Hours Act, 1904, and shall, in so far as they differ from the local authorities specified in that Act, be substituted for those local authorities:

Provided that a county council may, with the approval of the Secretary of State, make arrangements with the council of an urban district in the county with a population of less than twenty thousand, or with the council of a rural district, for the exercise by the council of that district as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council under the Shops Regulation Acts, 1892 to 1911, within the district, and the council of the district may, as part of the agreement, undertake to pay the whole or any part of the expenses incurred in connection with the exercise of the powers delegated to them, and the London County Council may, with the like approval, make similar arrangements with the council of any metropolitan borough.

(3) The expenses of a local authority under the Shops Regulation Acts, 1892 to 1911 (including any expenses which a council undertake to pay as aforesaid), shall, save as otherwise expressly provided by this Act, be defrayed—

in the case of the common council of the city of London, out of the general rate;

in the case of the council of a borough, out of the borough fund or borough rate;

in the case of a district council, as part of the general expenses incurred in the execution of the Public Health Acts;

in the case of a county council, as expenses for special county purposes;

in the case of a metropolitan borough council, as part of the expenses of the council.

8. Offences.—(1) If a shop assistant is employed contrary to the provisions of this Act, or is not allowed times for meals as required by this Act, the occupier of the shop shall be guilty of an offence against this Act unless, in the case of a shop assistant employed after half-past one o'clock in contravention of this Act, he proves that the shop assistant was employed merely for the purpose of serving a customer whom he was serving at that time, or that that time coincided with the time of the closing of the shop, and that the shop assistant was employed merely for the purpose of serving customers who were in the shop at that time.

(2) If a shop is kept open on the weekly half-holiday, the occupier of the shop shall be guilty of an offence against this Act:

Provided that the occupier of a shop shall not be guilty of an offence against this Act when a customer is served at any time at which the shop is required to be closed, if he proves either that the customer was in the shop before the time when the shop was required to be closed, or that there was reasonable ground for believing that the article supplied to the customer was required in the case of illness.

(3) If the occupier of a shop contravenes or fails to comply with any of the other provisions of this Act or the orders made thereunder, he shall be guilty of an offence against this Act.

(4) Where an offence for which the occupier of a shop is liable under the Shops Regulation Acts, 1892 to 1911, has, in fact, been committed by some manager, agent, servant, or other person, the manager, agent, servant, or other person shall be liable to the like penalty as if he were the occupier.

(5) A person guilty of an offence against this Act shall be liable to a fine not exceeding—

- (a) in the case of a first offence, one pound;
- (b) in the case of a second offence, five pounds; and
- (c) in the case of a third or subsequent offence, ten pounds.

(6) The provisions of the Shops Regulation Acts, 1892 to 1904, relating to offences and proceedings shall apply as if re-enacted in this Act and in terms made applicable thereto, and as if references to the occupier of a shop were substituted for references to the employer of a young person.

(7) All fines imposed in any proceedings instituted by or on behalf of a local authority in pursuance of their powers and duties under the Shops Regulation Acts, 1892 to 1911, shall be paid to the local authority and carried to the credit of the fund out of which the expenses incurred by the authority under those Acts are defrayed.

9. Proof and revocation of closing orders.]—

(1) Any order made by a local authority under the Shops Regulation Acts, 1892 to 1911, may be proved by the production of a copy thereof certified to be a true copy by a person purporting to be the clerk of the local authority by whom the order was made.

(2) Any order made by a local authority under this Act may, unless otherwise provided by this Act, be revoked by an order made in the like manner and subject to the like approval as the original order.

10. Application to Post Office business.]—

(1) Where Post Office business is carried on in any shop in addition to any other business, this Act shall apply to that shop subject to the following modifications:—

(a) If the shop is a telegraph office, the obligation to close on the weekly half-holiday shall not apply to the shop so far as relates to the transaction of Post Office business thereat;

(b) Where the Postmaster-General certifies that the exigencies of the postal service require that Post Office business should be transacted in any such shop at times when under the provisions of this Act relating to the weekly half-holiday the shop would be required to be closed, or under conditions not authorised by this Act, the shop shall for the purpose of the transaction of Post Office business, be exempted from the provisions of this Act to such extent as the Postmaster-General may certify to be necessary for the purpose:

Provided that in such cases the Postmaster-General shall make the best arrangements that the exigencies of the postal service allow with a view to the conditions of employment of the persons employed being on the whole not less favourable than those secured by this Act.

(2) Save as aforesaid, nothing in this Act shall apply to Post Office business, or to any premises in which Post Office business is transacted.

11. Supply of necessities to ships.]—Nothing in this Act shall prevent customers from being served, at a time when the shop in which they are sold is required to be closed, with victuals, stores, or other necessities for a ship, on her arrival at or immediately before her departure from a port.

12. Saving for fairs and bazaars.] Nothing in this Act shall apply to any fair lawfully held or any bazaar or sale of work for charitable or other purposes from which no private profit is derived.

13. Provisions with respect to members of the same family.] (1) Section ten of the Shop Hours Act, 1892 [55 & 56 Vict., c. 62], which provides for the exemption of members of the occupier's family and domestic servants from the provisions of that Act, shall cease to have effect, except so far as it relates to persons wholly employed as domestic servants.

(2) The provisions of this Act with respect to the allowance of intervals for meals shall not apply to a shop, if the only persons employed as

shop assistants are members of the family of the occupier of the shop maintained by him and dwelling in his house.

14. Interpretation.] In this Act—

The expression "shop" includes any premises where any retail trade or business is carried on;

The expression "retail trade or business" includes the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors, and retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement;

The expression "shop assistant" means any person wholly or mainly employed in a shop in connexion with the serving of customers or the receipt of orders or the despatch of goods;

The expression "bank holiday" includes any public holiday or day of rejoicing or mourning.

The expression "prescribed" means prescribed by regulations made under the Shop Hours Act, 1904;

The expression "closing order" means a closing order under the Shop Hours Act, 1904.

15. Application to Scotland.]—This Act shall apply to Scotland, subject to the following modifications:—

The Secretary for Scotland shall be substituted for the Secretary of State.

The local authority for the purposes of the Shops Regulation Acts, 1892 to 1911, shall be the county council in a county (exclusive of the police burghs therein) and the town council in a royal, parliamentary, or police burgh; and the expenses of a local authority under the said Acts shall be defrayed, in the case of a county council, out of the general purposes rate, and, in the case of a town council, out of the burgh general improvement assessment, or any other assessment leviable by the town council in equal proportions on owners and occupiers: Provided that the ratepayers of a police burgh shall not be assessed by the county council for any such expenses.

16. Application to Ireland.]—This Act shall apply to Ireland subject to the following modifications:—

(1) The Lord Lieutenant shall be substituted for the Secretary of State;

(2) A local authority for the purposes of this Act means as respects any municipal borough the borough council, and as respects any urban district the district council, and those authorities shall, as respects their several areas, be the local authorities for the purposes of the Shop Hours Act, 1904;

(3) The expenses of such local authorities shall be defrayed, in the case of a municipal borough, out of the borough fund or borough rate, and, in the case of a district council, as part of the general expenses incurred in the execution of the Public Health (Ireland) Acts, 1878 to 1907;

(4) This Act shall not extend to any rural district or part of a rural district, and nothing in this Act shall affect the powers or duties, under the Shops Regulation Acts, 1892 to 1904, of the commissioners of any town or township not being an urban district;

(5) In the case of a shop assistant employed in a shop in which the business of the sale by retail of intoxicating liquors is carried on, section one of this Act shall not apply, but, instead thereof, the following provisions shall have effect:—

(a) The assistant shall not, save as otherwise provided by this Act, be employed about the business of such shop for more than seventy-two hours (exclusive of meal hours) in any week;

(b) Intervals for meals shall be

allowed to each assistant, amounting to not less than two hours on each week-day;

(c) The occupier of the shop shall fix within the limit aforesaid, and shall specify in a notice in the prescribed form affixed in the shop, the times at which the employment or the several spells of employment, as the case may be, of the assistant are to commence and end on the several days of the week, and the assistant shall not be employed about the business of the shop, except within the time so fixed;

(d) The assistant may be employed overtime for not more than ninety hours in the calendar year, and such employment shall not be reckoned as employment for the purposes of the foregoing limitation of the hours of employment;

Provided that, during the first two months after the assistant has entered the employment, the amount of overtime worked by him shall not exceed the proportion of two hours for every week he has been in the employment, or is entitled under a contract to continue in the employment;

(e) The assistant shall be deemed to be employed overtime if he is employed before the time fixed by the notice for the commencement or after the time so fixed for the ending of his employment or during the interval so fixed between two spells of employment, and overtime shall be reckoned in periods of half an hour, and any period of overtime of less than half an hour shall be reckoned as a complete half hour; and the occupier of the shop when he intends to employ the assistant overtime on any day shall, before the overtime employment commences, record the prescribed particulars with respect to that employment in the prescribed manner;

(f) The assistant shall, subject as hereinafter mentioned, be allowed on one week-day in each week a holiday of not less than seven hours (in this sub-section referred to as a weekly half-holiday).

Unless the employer and the shop assistant otherwise agree, the weekly half-holiday shall commence either at the time at which the shop opens on that day (in this subsection referred to as "a morning half-holiday"), or at a time not less than seven hours before the time at which the shop closes on that day (in this subsection referred to as "an afternoon half-holiday"), and the aforesaid half-holidays shall be so arranged that the assistant shall be allowed a morning half-holiday and an afternoon half-holiday alternately;

(g) An assistant who has been employed by the same employer for a period of not less than twenty-six consecutive weeks about the business of one or more shops of the employer shall, so long as he continues in the employment of that employer, be allowed an annual holiday of at least seven consecutive days, or, if he has been employed as aforesaid for a period of not less than fifty-two consecutive weeks, an annual holiday of at least fourteen consecutive days;

(h) In any week in which an assistant is absent from his employment in or about the business of the shop, either on his annual holiday or on account of ill-health or otherwise, the weekly half-holiday may be disallowed in the case of every other assistant employed in or about the business of the shop and the number of hours of weekly employment of every such other assistant may be increased by seven hours accord-

ingly: Provided that, where the assistant is absent for more than four consecutive weeks on account of ill-health, the weekly half-holiday of the other assistants shall not be disallowed and their hours of employment shall not be increased by reason of such absence except in the first four weeks in which he is absent;

(*) No deduction from wages or salary payable to the assistant shall be made on account of any such holidays or half-holidays as aforesaid:

- (6) Any shop in which the trade or business of the sale by retail of intoxicating liquors is carried on in conjunction with any other trade or business, shall, as respects all such trades or businesses, be exempt from the obligation to be closed on the weekly half-holiday:

- (7) A local authority may, in addition to its other powers under the Shops Regulation Acts, 1892 to 1911, make an order fixing the hours on the several weekdays before which, either throughout the area of the local authority or in any specified part thereof, no shop, in which the business of the sale of intoxicating liquors for consumption on or off, or for consumption off, the premises only is carried on, shall be open for serving customers:

Such order shall be deemed to be a closing order, and all the provisions of the Shop Hours Act, 1904, with respect to closing orders, save those relating to the earliest hours to be fixed by a closing order, shall apply accordingly with the necessary modifications:

Provided that an order made under this sub-section shall not in any way affect the powers conferred by section eleven of the Licensing (Ireland) Act, 1874 [37 & 38 Vict., c. 69], of granting exemption orders in respect of licensed premises, or apply to any licensed premises during any time during which the premises are permitted to be open under any such exemption order:

- (8) Shops in which there is carried on the business of the sale by retail of intoxicating liquors for consumption on or off the premises, whether such business is carried on alone or in conjunction with any other business or trade, shall, for the purposes of the provisions of the Shop Hours Act, 1904, with respect to closing orders, be deemed to be shops of a separate class, and a local authority shall not make a closing order applying to shops of that class unless they are satisfied that the occupiers of at least two-thirds in number of the shops of that class approve the order:

- (9) Shops in which there is carried on the business of the sale by retail of intoxicating liquors for consumption off the premises only, whether such business is carried on alone or in conjunction with any other business or trade, shall, in like manner and for the purposes aforesaid, be deemed to be shops of a separate class, and the provisions of the last preceding sub-section with respect to the making of closing orders shall apply to that class of shops as a separate class accordingly.

17. Short title and commencement.—(1) This Act may be cited as the Shops Act, 1911; and the Shops Regulation Acts, 1892 to 1904, shall be construed as one with this Act, and may be cited with this Act as the Shops Regulation Acts, 1892 to 1911.

(2) This Act shall come into operation on the first day of May, nineteen hundred and twelve.

(3) The enactments specified in the third schedule to this Act are hereby repealed to the extent specified in the third column of that schedule, except so far as they relate to rural districts in Ireland, and to local authorities in those districts.

SCHEDULES. FIRST SCHEDULE.

[Section 1.]

INTERVALS FOR MEALS.

Intervals for meals shall be arranged so as to secure that no person shall be employed for more than six hours without an interval of at least twenty minutes being allowed during the course thereof.

Without prejudice to the foregoing provision—

- (1) where the hours of employment include the hours from 11.30 a.m. to 2.30 p.m., an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner; and
- (2) where the hours of employment include the hours from 4 p.m. to 7 p.m., an interval of not less than half-an-hour shall be allowed between those hours for tea;

and the interval for dinner shall be increased to one hour in cases where that meal is not taken in the shop, or in a building of which the shop forms part, or to which the shop is attached:

Provided that an assistant employed in the sale of refreshments or in the sale by retail of intoxicating liquors need not be allowed the interval for dinner between 11.30 a.m. and 2.30 p.m., if he is allowed the same interval so arranged as either to end not earlier than 11.30 a.m., or to commence not later than 2.30 p.m., and the same exemption shall apply to assistants employed in any shop on the market day in any town in which a market is held not oftener than once a week, or on a day on which an annual fair is held.

SECOND SCHEDULE.

[Section 2.]

TRADES AND BUSINESSES EXEMPTED FROM THE PROVISIONS OF THIS ACT AS TO WEEKLY HALF-HOLIDAY.

The sale by retail of intoxicating liquors.

The sale of refreshments, including the business carried on at a railway refreshment room.

The sale of motor, cycle, and air craft supplies and accessories to travellers.

The sale of newspapers and periodicals.

The sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers and other articles of a perishable nature.

The sale of tobacco and smokers' requisites.

The business carried on at a railway book-stall on or adjoining a railway platform.

The sale of medicines and medical and surgical appliances.

Retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

THIRD SCHEDULE.

[Section 17.]

Session and Chapter.	Short Title.	Extent of Repeal.
55 & 56 Vict. c. 62.	The Shop Hours Act 1892.	Section eight.
56 & 57 Vict. c. 67.	The Shop Hours Act, 1893.	The whole Act
4 Edw. 7, c. 31	The Shop Hours Act, 1904.	Subsection (2) of section eight; section nine.

CHAPTER 55.

[NATIONAL INSURANCE ACT, 1911.]

An Act to provide for Insurance against Loss of Health and for the Prevention and Cure of Sickness and for Insurance against Unemployment, and for purposes incidental thereto.

[16th December 1911.]

Be it enacted, &c.,

PART I. NATIONAL HEALTH INSURANCE. Insured Persons.

1. Insured persons.—(1) Subject to the provisions of this Act, all persons of the age of sixteen and upwards who are employed within the meaning of this Part of this Act shall be, and any such persons who are not so employed but who possess the qualifications herein-after mentioned may be, insured in manner provided in this Part of this Act, and all persons so insured (in this Act called "insured persons") shall be entitled in the manner and subject to the conditions provided in this Act to the benefits in respect of health insurance and prevention of sickness conferred by this Part of this Act.

(2) The persons employed within the meaning of this Part of this Act (in this Act referred to as "employed contributors") shall include all persons of either sex, whether British subjects or not, who are engaged in any of the employments specified in Part I. of the First Schedule to this Act, not being employments specified in Part II. of that schedule:

Provided that the Insurance Commissioners herein-after constituted may, with the approval of the Treasury, by a special order made in manner herein-after provided, provide for including amongst the persons employed within the meaning of this Part of this Act any persons engaged in any of the excepted employments specified in Part II. of the said schedule either unconditionally or subject to such conditions as may be specified in the order.

(3) The persons not employed within the meaning of this Part of this Act who are entitled to be insured persons include all persons who either—

- (a) are engaged in some regular occupation and are wholly or mainly dependent for their livelihood on the earnings derived by them from that occupation; or
- (b) have been insured persons for a period of five years or upwards;

and the persons possessing such qualifications who become or continue to be insured persons are in this Act referred to as voluntary contributors: Provided always that no person whose total income from all sources exceeds one hundred and sixty pounds a year shall be entitled to be a voluntary contributor unless he has been insured under this Part of this Act for a period of five years or upwards.

(4) Except as herein-after provided, nothing in this section shall require or authorise a person of the age of sixty-five or upwards not previously insured under this Part of this Act to become so insured.

2. Exemptions.—(1) Where any person employed within the meaning of this Part of this Act proves that he is either—

- (a) in receipt of any pension or income of the annual value of twenty-six pounds or upwards not dependent upon his personal exertions; or
- (b) ordinarily and mainly dependent for his livelihood upon some other person;

he shall be entitled to a certificate exempting him from the liability to become or to continue to be insured under this Part of this Act.

(2) All claims for exemption shall be made to, and certificates of exemption granted by, the Insurance Commissioners in the prescribed manner and subject to the prescribed conditions, and may be so made and granted before, as well as after, the commencement of this Act: Provided that the regulations of the Insurance Commissioners may provide for claims under this section being made to and certificates granted by approved societies and Insurance Committees herein-after constituted.

Contributions.

3. Contributions by insured persons, employers, and the Treasury.—(1) Except as otherwise provided by this Act, the funds for providing the benefits conferred by this Part of this Act and defraying the expenses of the administration of those benefits shall be derived as to seven-ninths (or, in the case of women, three-fourths) thereof from contributions made by or in respect of the contributors by themselves or their employers, and as

to the remaining two-ninths (or, in the case of women, one quarter) thereof from moneys provided by Parliament.

4. Rates and rules for contributions by employed contributors and their employers.—(1) The contributions payable in respect of employed contributors shall be at the rate specified in Part I. of the Second Schedule to this Act (hereinafter referred to as the employed rate), and shall comprise contributions by the contributors and contributions by their employers at the rates specified in that Part of that schedule, and shall be payable at weekly or other prescribed intervals:

Provided that, in the case of an employed contributor of the age of twenty-one or upwards whose remuneration does not include the provision of board and lodging by the employer and the rate of whose remuneration does not exceed two shillings a working day, such part of the contributions payable in respect of him as is specified in the said schedule shall be paid out of moneys provided by Parliament.

(2) The employer shall, in the first instance, pay both the contributions payable by himself (in this Act referred to as the employer's contributions), and also on behalf of the employed contributor the contributions payable by such contributor, and shall be entitled to recover from the contributor by deduction from his wages or otherwise the amount of the contributions so paid by him on behalf of the contributor, in accordance with the rules set out in the Third Schedule to this Act.

(3) Contributions in respect of employed contributors shall cease to be payable on their attaining the age of seventy.

(4) The employer of a person who though employed within the meaning of this Part of this Act is not insured under this Part of this Act by reason either—

(a) that, not having previously been an insured person, he has become employed within the meaning of this Part of this Act after attaining the age of sixty-five; or

(b) that he has obtained and still holds a certificate of exemption under this Part of this Act;

shall be liable to pay the like contributions as would have been payable as employer's contributions if such person had been an employed contributor, and such contributions shall be carried to such account and dealt with in such manner as may be prescribed by regulations made by the Insurance Commissioners, and those regulations may provide for applying the sums standing to the credit of the account, or any part thereof, for the benefit of any persons in respect of whom contributions have been so paid, in the event of such persons subsequently becoming employed contributors.

5. Rates and rules for contributions by voluntary contributors.—(1) The contributions payable by voluntary contributors shall be at the rate appropriate to their age at the date of their entry into insurance ascertained in accordance with a table to be prepared by the Insurance Commissioners (hereinafter referred to as the voluntary rate) and shall be paid by the voluntary contributors at weekly or other prescribed intervals:

Provided that—

(a) In the case of a person who enters into insurance within six months after the commencement of this Act, the voluntary rate shall, if he is below the age of forty-five at the date of entering into insurance, be the same as the employed rate, and, if he is of the age of forty-five or upwards, be such rate, ascertained according to a table to be prepared by the Insurance Commissioners, as, having regard to his age at that date, will be sufficient to cover seven-ninths, or, in the case of a woman, three-fourths, of the benefits conferred by this Part of this Act;

(b) Where a person, having been an employed contributor for five years or upwards, becomes a voluntary contributor, the rate of contribution payable by him shall continue to be the employed rate.

(2) Contributions by voluntary contributors shall cease to be payable on their attaining the age of seventy.

6. Change from voluntary rate to employed rate and vice-versa.—(1) Where an insured person has become a member of an approved society as a voluntary contributor, the rate of contributions payable in respect of him shall, notwithstanding that he becomes employed within the meaning of this Part of this Act, remain the voluntary rate, unless at any time after becoming so employed he gives notice in the prescribed manner of his wish to be transferred to the employed rate.

(2) Where he gives such notice, the rate payable in respect of him shall be the employed rate, but in such case the rate of sickness benefit payable in respect of him shall be such reduced rate as would have been payable had he not previously been insured, subject to such addition as may, according to tables prepared by the Insurance Commissioners, represent the value at that time of the contributions previously paid by him.

(3) Where he does not give such notice, and until he does so, the contributions payable by his employer in respect of him during any period of employment within the meaning of this Part of this Act shall be the same as if he had been transferred to the employed rate, and the contributions so paid by the employer shall be treated as in part satisfaction of the contributions at the voluntary rate payable by the contributor, and, if the contributor fails to pay the balance, he shall be deemed to be in arrear to that extent.

(4) Where an employed contributor within five years from his entry into insurance ceases to be employed within the meaning of this Part of this Act and becomes a voluntary contributor, he shall be deemed to be in arrear, as from the date when he so became a voluntary contributor, to the amount of the difference between the aggregate contributions paid by or in respect of him since his entry into insurance and the aggregate of the contributions which would have been payable by him had he throughout been a voluntary contributor, and the difference between any reserve value which is credited to the approved society of which he is a member in respect of him and the reserve value (if any) which would have been credited to that society in respect of him had he originally become a voluntary contributor shall be cancelled.

7. Power to make regulations for the payment of contributions.—Subject to the provisions of this Act, the Insurance Commissioners may make regulations providing for any matters incidental to the payment and collection of contributions payable under this Part of this Act, and in particular for—

(a) payment of contributions whether by means of adhesive or other stamps affixed to or impressed upon books or cards, or otherwise, and regulating the manner, times, and conditions in, at, and under which such stamps are to be affixed or impressed or payments are otherwise to be made;

(b) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards belong;

(c) the issue, sale, custody, production, and delivery up of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

Benefits.

8. Benefits.—(1) Subject to the provisions of this Act, the benefits conferred by this Part of this Act upon insured persons are—

(a) medical treatment and attendance, including the provision of proper and sufficient medicines, and such medical and surgical appliances as may be prescribed by regulations to be made by the Insurance Commissioners (in this Act called "medical benefit");

(b) treatment in sanatoria or other institutions or otherwise when suffering from tuberculosis, or such other diseases as the

Local Government Board with the approval of the Treasury may appoint (in this Act called "sanatorium benefit");

(c) periodical payments whilst rendered incapable of work by some specific disease or by bodily or mental disablement, of which notice has been given, commencing from the fourth day after being so rendered incapable of work, and continuing for a period not exceeding twenty-six weeks (in this Act called "sickness benefit");

(d) in the case of the disease or disablement continuing after the determination of sickness benefit, periodical payments so long as so rendered incapable of work by the disease or disablement (in this Act called "disablement benefit");

(e) payment in the case of the confinement of the wife or, where the child is a posthumous child, of the widow of an insured person, or of any other woman who is an insured person, of a sum of thirty shillings (in this Act called "maternity benefit");

(f) in the case of persons entitled under this Part of this Act to any of the further benefits mentioned in Part II. of the Fourth Schedule to this Act (in this Act called "additional benefits") such of those benefits as they may be entitled to.

(2) Subject to the provisions of this Part of this Act, the rates of sickness benefit and disablement benefit to which insured persons are entitled shall be the rates specified in Part I. of the Fourth Schedule to this Act.

(3) In the case of insured persons who have attained the age of seventy, the right to sickness benefit and disablement benefit shall cease.

(4) No insured person shall be entitled to any benefit during any period when he is resident either temporarily or permanently outside the United Kingdom:

Provided that, if a person is temporarily resident in the Isle of Man or the Channel Islands, he shall not, whilst so resident, be disentitled to benefits other than medical benefit, and that, if with the consent of the society or committee by which the benefit is administered a person is temporarily resident outside the United Kingdom elsewhere than in the Isle of Man or the Channel Islands, the society or committee may allow him, whilst so resident, to continue to receive sickness or disablement benefit, and that a person resident out of the United Kingdom shall not be disentitled to maternity benefit in respect of the confinement of his wife, if his wife at the time of her confinement is resident in the United Kingdom.

(5) Where an insured person, having been in receipt of sickness benefit, recovers from the disease or disablement in respect of which he receives such benefit, any subsequent disease or disablement, or a recurrence of the same disease or disablement, shall be deemed to be a continuation of the previous disease or disablement, unless in the meanwhile a period of at least twelve months has elapsed, and at least fifty weekly contributions have been paid by or in respect of him.

(6) Where a woman confined of a child is herself an insured person, and is a married woman, or, if the child is a posthumous child, a widow, she shall be entitled to sickness benefit or disablement benefit (as the case may be) in respect of her confinement in addition to the maternity benefit to which she or her husband may be entitled, but, save as aforesaid, a woman shall not be entitled to sickness benefit or disablement benefit for a period of four weeks after her confinement, unless suffering from disease or disablement not connected directly or indirectly with her confinement.

Medical benefit shall not include any right to medical treatment or attendance in respect of a confinement.

(7) Where a pension or superannuation allowance is payable by an approved society in whole or in part as an additional benefit under this Part of this Act, or out of any fund to which contributions have been made in accordance with paragraph (10) of Part II. of the Fourth Schedule to

this Act, it may be made a condition of the grant of the pension or allowance that a member of the society shall, whilst in receipt of such pension or allowance, be excluded in whole or in part from his right to sickness benefit and disablement benefit, or to either of such benefits.

(8) Notwithstanding anything in this Part of this Act, no insured person shall be entitled—

- (a) to medical benefit during the first six months after the commencement of this Act;
- (b) to sickness benefit, unless and until twenty-six weeks have elapsed since his entry into insurance, and at least twenty-six weekly contributions have been paid by or in respect of him;
- (c) to disablement benefit, unless and until one hundred and four weeks have elapsed since his entry into insurance, and at least one hundred and four weekly contributions have been paid by or in respect of him;
- (d) to maternity benefit, unless and until twenty-six, or in the case of a voluntary contributor fifty-two, weeks have elapsed since his entry into insurance, and at least twenty-six, or in the case of a voluntary contributor fifty-two, weekly contributions have been paid by or in respect of him.

(9) As soon as the sums credited to approved societies as reserve values in respect of persons who enter into insurance within one year after the commencement of this Act have been written off in manner provided by this Part of this Act, the benefits payable to insured persons under this Part of this Act shall be extended in such manner as Parliament may determine.

9. Reduced rates of benefit in certain cases.—(1) In the case of insured persons who are under the age of twenty-one years and unmarried, sickness benefit and disablement benefit shall be at the reduced rates specified in Table B in Part I. of the Fourth Schedule to this Act:

Provided that, where any such person being a member of an approved society proves that one or more members of his family are wholly or mainly dependent upon him, the society shall dispense with such reduction.

(2) Where, in the case of any insured persons, the rate of sickness benefit or disablement benefit (as the case may be) exceeds two-thirds of the usual rate of wages or other remuneration earned by such persons, the rate of such benefit may be reduced to such an extent as the society or committee administering the benefit, with the consent of the Insurance Commissioners, determines; but, where such reduction is made, provision shall be made by the society or committee, with the like consent, for the grant of one or more additional benefits of a value equivalent to such reduction.

(3) The rate of sickness benefit shall be reduced in accordance with Table C in Part I. of the Fourth Schedule to this Act in the case of any insured person who becomes an employed contributor within one year after the commencement of this Act, and is at the date of so becoming an employed contributor of the age of fifty years or upwards and the number of weekly contributions paid by or in respect of him is, at the date of any claim by him for such benefit, less than five hundred.

(4) In the case of every person who, not having been previously insured under this Part of this Act, becomes an employed contributor subsequently to the expiration of one year from the commencement of this Act, and is, at the time of so becoming an employed contributor, of the age of seventeen or upwards, the rate of sickness benefit to which he is entitled shall (unless he proves that his time since he attained the age of seventeen has been spent in a school or college, in indentured apprenticeship or otherwise under instruction without wages, or otherwise in the completion of his education, or unless he undertakes himself to pay the difference between the voluntary rate and the employed rate, or pays to the Insurance Commissioners, to be credited to the society, such capital sum as will be sufficient to secure him benefits at the full rate) be such reduced rate as may be fixed in accordance with tables to be prepared by the Insurance Commis-

sioners, but not in any case less than five shillings a week:

Provided that, if at any time subsequently such person would become entitled to sickness benefit at a higher rate if he were treated as having become an employed contributor as from the time when he attained the age of seventeen, or as from the expiration of one year after the commencement of this Act, whichever date may be the later, and as being in arrears for all contributions which, had he become an employed contributor at that date, would have been payable in respect of him between that date and the date when he actually became an employed contributor, he shall, if he so elects, be entitled to be so treated.

10. Reduced rates of benefits where contributions are in arrears.—(1) Where an insured person being a member of an approved society is in arrears to an amount greater than thirteen weekly contributions a year on the average since his entry into insurance, his right to benefits under this Part of this Act other than medical benefit, sanatorium benefit, and maternity benefit shall be suspended, and, where he is in arrears to an amount greater than twenty-six weekly contributions a year on the average since his entry into insurance, his right to medical benefit, sanatorium benefit, and maternity benefit shall be suspended, and at the expiration of the calendar year next after the date when he becomes suspended from all benefits any sums accredited to the society in respect of him, calculated in the prescribed manner, shall, if his right to benefits still continues to be suspended, be carried to such account and dealt with in such manner as may be prescribed for the benefit (except so far as such sums comprise sums in respect of a reserve value) of the society or any other society to which such person may subsequently be transferred:

Provided that, if at any time after suspension from any such benefits he becomes employed within the meaning of this Part of this Act, he shall be entitled to those benefits at such rate, after the lapse of such time and after the payment of such number of contributions, as would have been applicable to his case had he not previously been an insured person, but, if he so elects at any time, the benefits to which he is entitled shall be such as he would be entitled to, were the period from the time of his original entry into insurance taken as a whole.

(2) Where an employed contributor claiming sickness benefit is at the date of such claim in arrears but the arrears are less than as aforesaid, then the rate of sickness benefit shall be reduced to a sum not less than five shillings a week, or the time when sickness benefit commences deferred, proportionately to the amount of arrears in accordance with the table in the Fifth Schedule to this Act.

(3) Where a voluntary contributor is in arrears, he shall be liable to such proportionate reduction of benefits as may be prescribed.

(4) In calculating arrears of contributions, no account shall be taken of any arrears accruing—

- (a) during any period when the person in question has been, or but for this section or any other provision of this Act disentitled a person to such benefit, would have been, in receipt of sickness benefit or disablement benefit; or
- (b) in the case of a woman who, being an insured person, is herself entitled to maternity benefit, during two weeks before and four weeks after her delivery, or in the case of maternity benefit payable in respect of the posthumous child of an insured person, during the period subsequent to the father's death; or
- (c) in the case of an employed contributor, during the first twelve months after the commencement of this Act;

but, save as aforesaid, contributions shall be deemed to be payable in respect of every week from the date of entry into insurance.

(5) Where an insured person has paid any arrears of contributions payable by or in respect of him which accrued during the calendar year current at the date of payment and the previous calendar year, he shall be treated for the purposes of this section as if the arrears so paid had never become due:

Provided that, if such person is at the date of payment or subsequently within one month thereafter becomes incapable of work by reason of disease or disablement, he shall, for the purposes of this section, be deemed to be still in arrears in respect of the amount so paid until after the expiration of one month from the date of such payment.

(6) Any approved society may, if it thinks fit, excuse any part of the arrears which may have accrued due by or in respect of any member who is an employed contributor during any period of unemployment not exceeding such part as would have been payable by the employer had the member continued in his last employment, and in such case the amount of the arrears of that member shall be reduced accordingly.

(7) The average amount of arrears for the purposes of this section shall be calculated in such manner as the Insurance Commissioners may prescribe.

11. Provisions in the case of contributors entitled to compensation or damages.—(1) Where an insured person has received or recovered or is entitled to receive or recover, whether from his employer or any other person, any compensation or damages under the Workmen's Compensation Act, 1906 [6 Edw. 7. c. 53], or any scheme certified thereunder, or under the Employers' Liability Act, 1880 [43 & 44 Vict. c. 42], or at common law, in respect of any injury or disease, the following provisions shall apply:—

- (a) No sickness benefit or disablement benefit shall be paid to such person in respect of that injury or disease in any case where any weekly sum or the weekly value of any lump sum paid or payable by way of compensation or damages is equal to or greater than the benefit otherwise payable to such person, and, where any such weekly sum or the weekly value of any such lump sum is less than the benefit in question, such part only of the benefit shall be paid as, together with the weekly sum or the weekly value of the lump sum, will be equal to the benefit;
- (b) The weekly value of any such lump sum as aforesaid may be determined by the society or committee by which the sickness and disablement benefits payable to such person are administered, but, if the insured person is aggrieved by such determination, the matter shall be settled in manner provided by this Part of this Act for settling disputes between insured persons and societies or committees;
- (c) Where an agreement is made as to the amount of such compensation as aforesaid, and the amount so agreed is less than ten shillings a week, or as to the redemption of a weekly payment by a lump sum under the Workmen's Compensation Act, 1906, the employer shall, within three days thereafter, or such longer time as may be prescribed, send to the Insurance Commissioners, or to the society or committee concerned, notice in writing of such agreement giving the prescribed particulars thereof, and proviso (d) to paragraph (9) of the Second Schedule of the Workmen's Compensation Act, 1906 (which relates to the powers of registrars of county courts to refuse to record memoranda of agreements and to refer the matter to the judge) shall, in case where the workman is an insured person, apply to agreements as to the amount of compensation in like manner as to agreements as to the redemption of weekly payments by lump sums.

(2) Where an insured person appears to be entitled to any such compensation or damages as aforesaid and unreasonably refuses or neglects to take proceedings to enforce his claim, it shall be lawful for the society or committee concerned, either—

- (a) at its own expense, to take in the name and on behalf of such person such proceedings, in which case any compensa-

tion or damages recovered shall be held by the society or committee as trustee for the insured person; or

- (b) to withhold payment of any benefit to which apart from this section such person would be entitled.

In the event of the society or committee concerned taking proceedings as aforesaid and failing in the proceedings, it shall be responsible for the costs of the proceedings as if it were claiming on its own account.

(3) Nothing in this section shall prevent the society or committee paying to an insured person benefit by way of advance pending the settlement of his claim for compensation or damages, and any advance so made shall, without prejudice to any other method of recovery, be recoverable by deductions from or suspension of any benefits which may subsequently become payable to such person.

12. Provisions in the case of contributors who are inmates of hospitals, &c.—(1) No payment shall be made on account of sickness disablement or maternity benefit to or in respect of any person during any period when the person to or in respect of whom the benefit is payable is an inmate of any workhouse, hospital, asylum, convalescent home, or infirmary, supported by any public authority or out of any public funds or by a charity, or voluntary subscriptions, or of a sanatorium or similar institution approved under this Part of this Act.

(2) During such period as aforesaid the sum which would otherwise have been payable on account of any such benefit to or in respect of such person—

- (a) shall be paid to or applied in whole or in part for the relief or maintenance of his dependants (if any) in such manner as the society or committee by which the benefit is administered, after consultation whenever possible with such person, thinks fit; or

- (b) if such person, being a member of an approved society, is an inmate of a sanatorium or similar institution in which he is receiving treatment in accordance with the provisions of this Part of this Act, and has no dependants, shall be paid to the Insurance Committee towards the general purposes thereof; or

- (c) if such person, being a member of an approved society, is an inmate of a hospital, asylum, convalescent home, or infirmary supported by charity or by voluntary subscriptions and has no dependants, shall, if an agreement for the purpose has been made between the society or committee and the hospital, asylum, convalescent home, or infirmary, be paid, in whole or in part, according to such agreement, towards the maintenance of such person in the hospital, asylum, convalescent home, or infirmary:

Provided that—

- (i) any part of such sum which is not so applied as aforesaid may, if the society or committee thinks fit, be applied in the provision of any surgical appliances required for the insured person or otherwise for his benefit; and
- (ii) if such an inmate as aforesaid is a married woman or widow, and the sums so payable or applicable as aforesaid include the sums which would have been payable both on account of sickness or disablement benefit and on account of maternity benefit, no part of the sum which would otherwise be payable on account of maternity benefit shall be paid or applied for the relief or maintenance of her dependants, but such sum may be paid to the hospital, asylum, convalescent home, or infirmary of which she is an inmate as aforesaid in like manner as if she had no dependants.
- (iii) where any person who is entitled to any benefit under this Part of this Act, or a woman whose husband is entitled to maternity benefit in respect of her

confinement, applies for admission to any workhouse infirmary, admission thereto shall not be refused on the ground only of the right to such benefit.

13. Power to vary benefits in certain cases.—

(1) Any approved society may submit to the Insurance Commissioners a scheme for substituting any of the additional benefits for sickness benefit and disablement benefit or either of those benefits or any part thereof, and the scheme may provide as respects the members of the society to whom the scheme applies that any such benefits shall be abolished or the rate thereof reduced or, in the case of sickness benefit, the commencement thereof postponed; and the scheme may contain such incidental and consequential provisions as appear necessary for adapting the other provisions of this Part of this Act to the members to whom the scheme applies.

(2) The scheme shall apply either to all members of the society or to any specified class thereof or to any members of the society who may elect to come under the scheme, according as may be provided by the scheme.

(3) A scheme made under this section shall not have any effect unless and until confirmed by the Insurance Commissioners, and the Insurance Commissioners shall not confirm any such scheme unless satisfied that the value of the additional benefits conferred by the scheme is equivalent to the value of the benefits for which they are substituted, and that, in view of the special circumstances of the members or class of members intended to come under the scheme, there is good reason for substituting the additional benefits conferred by the scheme for the benefits for which they are substituted.

(4) Nothing in this section or in any scheme made thereunder shall affect the amount of any reserve value to be credited to a society in respect of a member, and such reserve values shall be calculated as if the scheme had not been made.

Administration of Benefits.

14. Administration of benefits by approved societies or the Insurance Committee.—(1) Sickness benefit, disablement benefit, and maternity benefit shall be administered, in the case of insured persons who are members of an approved society, by and through the society, or a branch thereof, and in other cases by and through the Insurance Committees; medical and sanatorium benefits shall in all cases be administered by and through the Insurance Committees, additional benefits shall be administered by the society or branch of which the persons entitled thereto are members, except where such benefits are in the nature of medical benefits, in which case they shall be administered by and through the Insurance Committees.

(2) Subject to the provisions of this Part of this Act, an approved society may, with the consent of the Insurance Commissioners, provide for the application of its existing rules or make new rules with regard to the manner and time of paying or distributing, and mode of calculating, benefits, suspension of benefits, notices and proof of disease or disablement, behaviour during disease or disablement, and the visiting of sick or disabled persons, and for the infliction and enforcement of penalties (whether by way of fines or suspension of benefits or otherwise) in the case of any member being an insured person who is guilty of any breach of any such rule, or of any imposition or attempted imposition in respect of any benefit under this Part of this Act, and may, from time to time with the like consent, alter or repeal any such rules; but—

- (a) no fine imposed under any such rule shall exceed ten shillings or, in the case of repeated breaches of rules, twenty shillings;
- (b) no such rule shall provide for the suspension of any benefit for a period exceeding one year;
- (c) every such rule relating to the visiting of insured persons by visitors appointed by the society shall provide that women shall not be visited otherwise than by women;
- (d) every such rule relating to behaviour during disease or disablement shall be in the prescribed form;

- (e) no such rule shall prescribe any penalty, nor shall any insured person be subject to any penalty, whether by suspension of benefit or otherwise, on account of the refusal by any such person to submit to a surgical operation, or vaccination, or inoculation of any kind, unless such refusal in the case of a surgical operation of a minor character is considered by the society, or on appeal the Insurance Commissioners, unreasonable;

- (f) no such rule shall provide for inflicting as a penalty for breach of rules or imposition or attempted imposition on the part of an insured person suspension of maternity benefit in respect to the confinement of his wife, where his wife has not herself been guilty of any such breach, imposition, or attempted imposition.

(3) The Insurance Committee shall, subject to the approval of the Insurance Commissioners, make rules in respect of any of the matters mentioned in the last preceding subsection with regard to the administration of benefits by the committee;

Provided that no such rule relating to anything to be done by, to, or through the Post Office shall be made without the consent of the Postmaster-General.

(4) Where, under any such rule as aforesaid, payment of sickness or disablement benefit is suspended on the ground that the disease or disablement has been caused by the misconduct of the person claiming the benefit, such person shall not thereby become disentitled to medical benefit.

(5) Where under any Act regulating the constitution of a society which becomes an approved society the rules of the society are required to be registered, any rules approved under this section by the Insurance Commissioners shall forthwith be registered, but till so registered shall have effect as if they had been duly registered.

15. Administration of medical benefit.—(1) Every Insurance Committee shall, for the purpose of administering medical benefit, make arrangements with duly qualified medical practitioners in accordance with regulations made by the Insurance Commissioners.

(2) The regulations made by the Insurance Commissioners shall provide for the arrangements made being subject to the approval of the Insurance Commissioners and being such as to secure that insured persons shall, save as hereinafter provided, receive adequate medical attendance and treatment from the medical practitioners with whom arrangements are so made, and shall require the adoption by every Insurance Committee of such system as will secure

- (a) the preparation and publication of lists of medical practitioners who have agreed to attend and treat insured persons whose medical benefit is administered by the committee;

- (b) a right on the part of any duly qualified medical practitioner who is desirous of being included in any such list as aforesaid of being so included, but, where the Insurance Commissioners, after such inquiry as may be prescribed, are satisfied that his continuance in the list would be prejudicial to the efficiency of the medical service of the insured, they may remove his name from the list;

- (c) a right on the part of any insured person of selecting, at such periods as may be prescribed, from the appropriate list the practitioner by whom he wishes to be attended and treated, and, subject to the consent of the practitioner so selected, of being attended and treated by him;

- (d) the distribution amongst, and, so far as practicable, under arrangements made by, the several practitioners whose names are on the lists, of the insured persons who after due notice have failed to make any selection, or who have been refused by the practitioner whom they have selected;

- (e) the provision of medical attendance and treatment, on the same terms as to remuneration as those arranged with

respect to insured persons, to members of any friendly society which, or a separate section of which, becomes an approved society who were such members at the date of the passing of this Act, and who are not entitled to medical benefit under this Part of this Act by reason either that they are of the age of sixty-five or upwards at the date of the commencement of this Act, or that being subject to permanent disablement at that date they are not qualified to become insured persons:

Provided that, if the Insurance Commissioners are satisfied after inquiry that the practitioners included in any list are not such as to secure an adequate medical service in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area, and authorise the Committee to make such other arrangements as the Commissioners may approve; or the Commissioners may themselves make such arrangements as they think fit, or may suspend the right to medical benefit in respect of any insured persons in the area for such period as they think fit, and pay to each such person a sum equal to the estimated cost of his medical benefit during that period, and, where the Commissioners take any such action, themselves they shall retain and apply for the purpose such part of the sums payable to the Insurance Committee in respect of medical benefit as may be required.

(3) The regulations made by the Insurance Commissioners shall authorise the Insurance Committee by which medical benefit is administered to require any persons whose income exceeds a limit to be fixed by the Committee, and to allow any other persons, in lieu of receiving medical benefit under such arrangements as aforesaid, to make their own arrangements for receiving medical attendance and treatment (including medicines and appliances), and in such case the Committee shall, subject to the regulations, contribute from the funds out of which medical benefit is payable towards the cost of medical attendance and treatment (including medicines and appliances) for such persons sums not exceeding in the aggregate the amounts which the Committee would otherwise have expended in providing medical benefit for them.

(4) The regulations shall provide that, in the case of persons who are entitled to receive medical attendance and treatment under any system or through any institution existing at the time of the passing of this Act and approved by the Insurance Committee and the Insurance Commissioners, such medical attendance and treatment may be treated as, or as part of, their medical benefit under this Part of this Act, and may provide for the Committee contributing towards the expenses thereof the whole or any part of the sums which would be contributed in the case of persons who have made their arrangements as aforesaid, so, however, that such regulations shall secure that no person be deprived of his right, if he so elects, of selecting the duly qualified medical practitioner by whom he wishes to be attended and treated, in accordance with the foregoing provisions of this section.

(5) Every such Committee shall also make provision for the supply of proper and sufficient drugs and medicines and prescribed appliances to insured persons in accordance with regulations made by the Insurance Commissioners, which shall provide for the arrangements made being subject to the approval of the Insurance Commissioners and being such as to enable insured persons to obtain from any persons, firms, or bodies corporate with whom arrangements have been made such drugs, medicines, and appliances if ordered by the medical practitioner by whom they are attended, and shall require the adoption by every Insurance Committee of such a system as will secure—

(a) The preparation and publication of lists of persons, firms, and bodies corporate who have agreed to supply drugs, medicines, and appliances to insured persons whose medical benefit is administered by the Committee, according to such scale of prices as may be fixed by the Committee;

(b) A right on the part of any person, firm, or body corporate desirous of being included in any such list as aforesaid of being so included, for the purpose of supplying such drugs, medicines, and appliances as such person, firm, or body corporate is entitled by law and authorised by the Committee to supply, except in cases where the Insurance Commissioners after inquiry are satisfied that the inclusion or continuance of the person, firm, or body corporate in such list would be prejudicial to the efficiency of the service:

Provided that—

(i) If the Insurance Commissioners are satisfied that the scale of prices fixed by the Committee is reasonable, but that the persons, firms, or bodies corporate included in any list are not such as to secure an adequate and convenient supply of drugs, medicines, and appliances in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area and authorise the Committee to make such other arrangements as the Commissioners may approve;

(ii) Except as may be provided by regulations made by the Insurance Commissioners, no arrangement shall be made by the Insurance Committee with a medical practitioner under which he is bound or agrees to supply drugs or medicine to any insured persons;

(iii) Subject to the regulations made by the last foregoing proviso the regulations shall prohibit arrangements for the dispensing of medicines being made with persons other than persons, firms, or bodies corporate entitled to carry on the business of a chemist and druggist under the provisions of the Pharmacy Act, 1868 [31 & 32 Vict. c. 121], as amended by the Poisons and Pharmacy Act, 1908 [8 Edw. 7. c. 65], who undertake that all medicines supplied by them to insured persons shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who, for three years immediately prior to the passing of this Act, has acted as a dispenser to a duly qualified medical practitioner or a public institution;

(iv) Nothing in this Act shall interfere with the rights and privileges conferred by the Apothecaries Act, 1815 [55 Geo. 3. c. 194], upon any person qualified under that Act to act as an assistant to any apothecary in compounding and dispensing medicines.

(6) There shall in each year be paid to the Insurance Committee for each county or county borough out of moneys credited to a society which has members resident in the county or county borough such sum in respect of the medical benefit of such members and the cost of administration thereof as may be agreed between the society and committee or, in default of agreement, may be determined by the Insurance Commissioners.

(7) If in any year the amount payable to an Insurance Committee in respect of all persons for the administration of whose medical benefit it is responsible is insufficient to meet the estimated expenditure thereon, the Committee may, through the Insurance Commissioners, transmit to the Treasury and to the council of the county or county borough an account showing the amount so payable and the estimated expenditure, and the Treasury and the county council or the council of the county borough may, if they think fit and if satisfied that the amounts so payable and the proposed expenditure are reasonable and proper in the circumstances, sanction the expenditure.

(8) The Treasury and the council of the county or county borough sanctioning any such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and, in the case of the council of a county or county borough, out of the county fund or borough fund or borough

rate, as the case may be, one half of any sums so sanctioned by them and expended by the Insurance Committee on medical benefit in the course of the year in excess of the amounts so payable to the Insurance Committee as aforesaid.

16. Administration of sanatorium benefit.—(1) For the purpose of administering sanatorium benefit, Insurance Committees shall make arrangements, to the satisfaction of the Insurance Commissioners,—

(a) with a view to providing treatment for insured persons suffering from tuberculosis or any other such disease as aforesaid in sanatoria and other institutions, with persons or local authorities (other than poor law authorities) having the management of sanatoria or other institutions approved by the Local Government Board, which treatment it shall be lawful for a local authority to provide as respects insured persons resident outside as well as respects those resident within their area; and

(b) with a view to providing treatment for such persons otherwise than in sanatoria or other institutions, with persons and local authorities (other than poor law authorities) undertaking such treatment in a manner approved by the Local Government Board, which treatment (including the appointment of officers for the purpose) it shall be lawful for a local authority, if so authorised by the Local Government Board, to undertake.

(2) The sums available for defraying the expenses of sanatorium benefit in each year shall be—

(a) one shilling and threepence in respect of each insured person resident in the county or county borough, payable out of the funds out of which benefits are payable under this Part of this Act;

(b) one penny in respect of each such person payable out of moneys provided by Parliament;

Provided that the Insurance Commissioners may retain the whole or any part of the sums so payable out of moneys provided by Parliament to be applied, in accordance with regulations made by the Commissioners, for the purposes of research.

(3) An insured person shall not be entitled to sanatorium benefit unless the Insurance Committee recommends the case for such benefit.

(4) An Insurance Committee may, out of the sums available for defraying the expenses of sanatorium treatment, defray in whole or in part the expenses of the conveyance of an insured person to or from any sanatorium or institution to which he may be sent for treatment therein, or may make advances for the purpose.

17. Power to extend sanatorium benefit to dependants.—(1) The Insurance Committee for any county or county borough may, if it thinks fit, extend sanatorium benefit to the dependants of the insured persons resident in the county, or any part of the county, or in the county borough, or any class of such dependants, and in such case the arrangements to be made by the committee shall include arrangements for the treatment of such dependants, and the sums available for sanatorium benefit shall be applicable to the purpose.

(2) If in any year the amount available for defraying the expenses of sanatorium benefit is insufficient to meet the estimated expenditure on sanatorium benefit for insured persons and such dependants, the Insurance Committee may, through the Insurance Commissioners, transmit to the Treasury and the council of the county or county borough an account showing the estimated expenditure for the purpose and the amount of the sums available for defraying the expenses of sanatorium benefit, and the Treasury and council may if they think fit sanction such expenditure.

(3) The Treasury and the council of the county or county borough sanctioning such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and, in the case of the council of a county or county borough, out of the county fund or borough fund or borough

rate, as the case may be, one-half of any sums so sanctioned by them and expended by the Insurance Committee on sanatorium benefit for insured persons and their dependants in the course of the year in excess of the amount available for defraying the expenses of the committee on sanatorium benefit.

18. Administration of maternity benefit.—(1) Where the mother of the child is herself an insured person, and is not the wife or, in the case of a posthumous child, the widow of an insured person, maternity benefit shall be treated as a benefit for her and shall be administered in cash or otherwise by the approved society of which she is a member, or, if she is not a member of any society, by the Insurance Committee; in any other case, the benefit shall be treated as a benefit for her husband and shall be administered in cash or otherwise by the approved society of which he is a member, or, if he is not a member of any such society, by the Insurance Committee, and shall be payable in respect of a posthumous child as if the husband were still alive:

Provided always that the mother shall decide whether she shall be attended by a duly qualified medical practitioner or by a duly certified midwife, and shall have free choice in the selection of such practitioner or midwife, but if, in the case of a midwife being selected, a duly qualified medical practitioner is subsequently summoned in pursuance of the rules made under the Midwives Act, 1902 [2 Edw. 7. c. 17], the prescribed fee shall, subject to regulations made by the Insurance Commissioners, be recoverable as part of the maternity benefit.

(2) In deciding whether or not they shall make an order under the Bastardy Laws Amendment Act, 1872 [35 & 36 Vict. c. 65], for the payment of the expenses incidental to the birth of a child, the justices shall not take into consideration the fact that the mother of the child is entitled to receive maternity benefit under this Part of this Act.

19. Punishment of husband in certain cases of neglect.—Without prejudice to any other legal liability, where, under the immediately foregoing section, which relates to the administration of maternity benefit, of this Act, maternity benefit is given or paid to the husband, it shall be the duty of the husband to make adequate provision to the best of his power for the maintenance and care of his wife during her confinement, and for a period of four weeks after her delivery, and if he neglects or refuses to do so he shall be liable upon summary conviction to imprisonment, with or without hard labour, for any term not exceeding one month.

20. Reinsurance for the purposes of maternity benefit.—For the purpose of the administration of maternity benefit, the Insurance Commissioners may, if they think fit, by special order provide for the reinsurance with them of the liabilities of all approved societies in respect of maternity benefit, and the order may provide for the method of calculating the premiums to be charged against the several societies in respect of such reinsurances and may contain such other incidental, consequential, and supplemental provisions as may appear necessary for the purpose.

21. Power to subscribe to hospitals, &c.—It shall be lawful for an approved society or Insurance Committee to grant such subscriptions or donations as it may think fit to hospitals, dispensaries and other charitable institutions, or for the support of district nurses, and to appoint nurses for the purpose of visiting and nursing insured persons, and any sums so expended shall be treated as expenditure on such benefits under this Part of this Act as may be prescribed.

22. Power of councils of boroughs and districts to contribute to certain expenditure on medical and sanatorium benefits.—(1) The council of any borough or urban or rural district may agree with the council of the county in which the borough or district is situate to repay to the latter council the whole or any part of the sums payable by that council in accordance with the provisions of this Part of this Act towards the excess expenditure on medical or sanatorium benefit so far as such excess is properly attributable to the borough or

district, and any sums payable by the council of the borough or district in pursuance of such an agreement shall be payable, in the case of a borough, out of the borough fund or borough rate, and, in any other case, as part of the general expenses incurred by the council in the execution of the Public Health Acts.

(2) The agreement may provide that the county council shall not raise any sum on account of any expenditure incurred by them under this Part of this Act for the purpose to which the agreement relates within the borough or urban or rural district the council of which has entered into such agreement, during the continuance of such agreement.

Approved Societies.

23. Conditions for the approval of approved societies.—(1) Any society, that is to say, any body of persons, corporate or unincorporate (not being a branch of another such body), registered or established under any Act of Parliament, or by Royal Charter, or, if not so registered or established, having a constitution of such a character as may be prescribed, which complies with the requirements of this Act relating to approved societies, may be approved by the Insurance Commissioners, and, if so approved, shall be an approved society for the purposes of this Part of this Act:

Provided that, where any society establishes for the purposes of this Part of this Act a separate section consisting of insured persons, whether with or without honorary members not being insured persons, and so constituted as to comply with the requirements of this Act relating to approved societies, such separate section may be approved by the Insurance Commissioners, and, if so approved, shall be an approved society, and the provisions of this Part of this Act relating to the conditions of approval of societies and to approved societies shall apply only to such separate section of the society.

(2) No society shall receive the approval of the Insurance Commissioners unless it satisfies the following conditions:—

(i) It must not be a society carried on for profit;

(ii) Its constitution must provide to the satisfaction of the Insurance Commissioners for its affairs being subject to the absolute control of its members being insured persons or, if the rules of the society so provide, of its members whether insured persons or not, including provision for the election and removal of the committee of management or other governing body of the society, in the case of a society whose affairs are managed by delegates elected by members, by such delegates, and, in other cases, in such manner as will secure absolute control by its members;

(iii) If the society has honorary members, its constitution must provide for excluding such honorary members from the right of voting in their capacity of members of the society on all questions and matters arising under this Part of this Act.

(3) Applications for approval under this section may be made and approval granted at any time before or after the commencement of this Act, and the Insurance Commissioners may grant approval either unconditionally or subject to the condition of the society taking within such time as the Commissioners may allow such steps as may be necessary to make the society comply with the requirements of this Part of this Act relating to approved societies.

24. Power of societies to undertake business under Part I.—(1) It shall be lawful for any body of persons, corporate or unincorporate, established before the passing of this Act which is desirous of transacting insurance business under this Part of this Act, or of making any amendments in its constitution, or administration, or contributions, or benefits, or otherwise which may be necessary or expedient in consequence of the passing of this Act, notwithstanding anything in the provisions of the Acts under which it is established or registered or carried on, or of its memorandum or articles of association, rules, or

other instrument governing its constitution or defining its objects, to do all such acts and things (including the establishment of a separate section as aforesaid) as may be necessary for the purpose of enabling the body to undertake the transaction of such business as soon as may be after the passing of this Act and, if the instrument regulating the constitution of the body contains provisions requiring any interval to elapse before action can be taken, such provisions shall not apply to action taken for the purposes aforesaid.

(2) Sub-sections (3) and (4) of section seventy of the Friendly Societies Act, 1896 [59 & 60 Vict. c. 25] shall not apply to any resolutions for amalgamation or transfer of engagements when the resolution is made expressly for the purposes of this Part of this Act.

(3) This section shall come into operation on the passing of this Act, and shall not continue in force beyond the expiration of one year from the commencement of this Act, except so far as may be necessary to enable a society which has undertaken the transaction of insurance business under this Part of this Act to continue to transact such business.

25. Special provisions for employers' provident funds, &c.—(1) Where a society consists of persons entitled to rights in a superannuation or other provident fund established for the benefit of persons employed by one or more employers, the society may be approved, notwithstanding that the employer is entitled to representation on the committee or other body administering the fund to an extent not exceeding one quarter of the total number of the body, if the employer, in addition to the employer's contributions payable by him under this Part of this Act, is responsible for the solvency of the fund or for the benefits payable thereon, or is liable to pay a substantial part of, or to make substantial contributions to, or substantially to supplement, the benefits payable out of the fund:

Provided that no such society as aforesaid shall be approved unless by its constitution it is prohibited so far as concerns the benefits under this Part of this Act from refusing to allow a member to transfer to another approved society, and from refusing to allow a member who is discharged from or leaves the employment of the employer and is unable to obtain admission to another approved society on account of the state of his health to continue a member, and unless its constitution provides for the election of the members of the committee of management (other than the employer's representatives) by ballot:

Provided also that no such society shall be approved if the employer makes membership of such society a condition of employment.

(2) Where, for the purpose of enabling any such society to become an approved society, it is necessary to make any alteration in the existing rules or constitution of the society which it is not competent for the society under its existing constitution to make, a scheme for the purpose may be submitted for the approval of the Insurance Commissioners.

(3) Where such a scheme has been approved by the Insurance Commissioners, the Act or deed constituting the society shall have effect subject to the provisions of the scheme, but the Insurance Commissioners shall not approve any such scheme unless they are satisfied that the members of the society have been given an opportunity of voting by ballot thereon, and that the scheme makes proper provision for safeguarding existing rights and interests.

26. Security to be given by approved societies.—

(1) Every approved society and every society desirous of becoming an approved society shall give such security as the Insurance Commissioners may consider sufficient to provide against any misvaluation or misappropriation by officers of the society of any funds coming to the hands of the society under this Part of this Act, and in determining the amount of the security to be required the Commissioners shall have regard to the amount of the funds so coming into the hands of the society:

Provided that no security shall be required from any society which proves to the Insurance Commissioners that the only funds coming into

the hands of the society under this Part of this Act are such funds as are required for reimbursing to the society sums previously expended by the society under this Part of this Act.

(2) In the case of an approved society with branches having insured persons among their members, security shall be given in respect of each such branch by the society.

(3) The Insurance Commissioners may from time to time vary the amount of security to be given or maintained by an approved society as may be thought proper, and, where security is given by way of deposit of securities, the society which made the deposit may, with the consent of the Insurance Commissioners, substitute other securities for the securities for the time being deposited.

(4) Any dividends or interest arising from securities deposited by an approved society under this section shall be paid to the society.

27. Provisions as to approved societies.]—(1) Every approved society shall, as respects the administration of the affairs of the society under this Part of this Act, make proper provision by rules to the satisfaction of the Insurance Commissioners for the government of the society, and if a society with branches—

- (a) for the government of the society and its branches;
- (b) for the determination of disputes arising between the society and any branch thereof, or between one such branch and another;
- (c) for the administration of benefits by the branches as respects insured persons who are members of such branches;
- (d) for the keeping of proper books of account by the branches in any case where separate accounts are usually kept by those branches;
- (e) for depriving of or suspending from the right of administering benefits under this Part of this Act any branch which is guilty of maladministration of those benefits, or is convicted of any offence under any Act, and for providing in such a case for their administration by the society or otherwise.

(2) Every approved society and every branch thereof, shall comply with any regulations made by the Insurance Commissioners as to the place in which meetings are to be held, and those regulations may provide for the use for such meetings, with or without payment, of any offices or other buildings under the control of a Government Department (including offices or buildings occupied by or in connection with a labour exchange) or belonging to or under the management of a local authority, but subject to the consent of the Government Department or the local authority concerned.

(3) Where under any Act regulating the constitution of an approved society the rules of the society are required to be registered, any rules approved under this section by the Insurance Commissioners shall forthwith be registered, but until so registered shall have effect as if they had been duly registered.

23. Secessions, &c.]—(1) No branch of an approved society having insured persons among its members shall be entitled to secede or withdraw from the society without the consent of the Insurance Commissioners; but such consent shall not be given unless the seceding or withdrawing branch complies with the conditions of approval requisite in the case of approved societies, and, on any such consent being given, the branch shall be subject in all respects to the provisions and requirements of this Part of this Act relating to approved societies:

Provided that such consent shall not be required if the branch makes provision to the satisfaction of the Insurance Commissioners for the transfer to other approved societies or to other branches of the society from which it is seceding or withdrawing of such of its members as are insured persons.

(2) An approved society or a branch thereof shall not be dissolved without the sanction of the Insurance Commissioners, and any such dissolution, so far as it affects members who are insured

persons, shall be carried out in the prescribed manner.

(3) No branch of an approved society shall be expelled from the society, unless proper provision is made to the satisfaction of the Insurance Commissioners with respect to any members of the branch who are insured persons.

(4) This section shall have effect notwithstanding anything contained in any Act regulating the constitution of the society.

29. Withdrawal of approval.]—Where an approved society or a branch of any approved society fails to comply with any of the provisions or requirements of this Part of this Act relating to approved societies, or where such a society or branch or the body of which the society forms a separate section is convicted of any offence under any Act regulating its constitution or under any other Act, the Insurance Commissioners may withdraw their approval, and thereupon the society shall cease to be an approved society and the Insurance Commissioners shall make such provision as they may consider necessary with respect to members of the society who are insured persons.

Membership of Approved Societies and Transfer of Members.

30. Admission of insured persons to membership in approved societies.]—(1) Subject to the provisions of this Act, any insured person and any person entitled to become an insured person may apply to an approved society for membership therein.

(2) An approved society shall be entitled, in accordance with its rules, to admit or reject any such applicant, or to expel any of its members being insured persons; Provided that no such application shall be refused solely on the ground of the age of the applicant.

(3) This section shall come into operation on the passing of this Act.

31. Transfer from one approved society to another.]—(1) If an insured person, being a member of an approved society, ceases to be a member of that society, whether voluntarily or by expulsion, and becomes a member of another approved society, there shall be transferred to such other society in respect of such person a sum representing the liability under this Part of this Act of the first-mentioned society in respect of him (in this Act called "transfer value") calculated in accordance with tables to be prepared by the Insurance Commissioners:

Provided that such transfer value shall not be so transferred in any case where the first-mentioned society proves that the insured person voluntarily ceased to be a member of that society without the consent of the society, and that that consent was not unreasonably withheld.

(2) This section shall apply to transfers from one branch of an approved society to another branch of the same or any society in like manner as it applies to transfers from one society to another society.

32. Transfers to foreign and colonial societies.]

(1) If an insured person ceases to be permanently resident in the United Kingdom and becomes a member of any society or institution established in a British possession or foreign country, of a kind similar to an approved society, which is approved by the Insurance Commissioners, or of any branch established outside the United Kingdom of an approved society, the transfer value of such person, or, in the case of a deposit contributor, the amount standing to his credit in the Post Office fund, shall be paid to such society or institution or branch; but no such payment shall be made, unless the Insurance Commissioners are satisfied that the society, institution, or branch in question gives corresponding rights to any of its members becoming resident in the United Kingdom.

(2) Where an arrangement has been made with the Government of any British possession or with the Government of any foreign State, whereby insured persons may be transferred to a society or institution established in the British possession or foreign State similar to an approved society or the Post Office fund, and members of any such society or institution may be transferred to

approved societies or to the Post Office fund, it shall be lawful for the Insurance Commissioners to make such arrangements as may be necessary for any such transfer as aforesaid, and for the determination of the amount to be transferred in any such case, and of the rights to which any person transferred is to be entitled; so, however, that nothing in this section shall affect the rights of a society under this Part of this Act to refuse applications for membership.

33. Transfer values of emigrants who remain members of approved societies.]—If a person who has for not less than five years been a member of an approved society for the purposes of this Part of this Act has ceased permanently to reside in the United Kingdom, and does not join such a society, branch, or institution as is in the last foregoing section mentioned, and the approved society is willing to permit him to remain a member of the society and to become entitled to benefits independently of this Act, the society may, subject to regulations by the Insurance Commissioners, transfer from the account of the society under this Part of this Act to the credit of the society independently of this Act such sum as would have been transferred to the Post Office fund had the member ceased to be a member of the society and become a deposit contributor, and so much of any reserve value which may have been credited to the society in respect of him as would in such a case have been cancelled shall be cancelled.

34. Prohibition against double insurance.]—A person shall not be or attempt to become a member for the purposes of this Part of this Act of more than one approved society at the same time, or, being a deposit contributor, to become at the same time a member for the purposes of this Part of this Act of an approved society, but nothing in this Act shall prevent any person who is a member of an approved society under this Part of this Act becoming a member of the same or any other society independently of this Act, or prevent a deposit contributor becoming a member of any society independently of this Act, or affect the right of an approved society to reject or expel from membership any person not being an insured person, or the rights or liabilities of an approved society or of any member thereof arising otherwise than under this Part of this Act; and, subject to the provisions of this Part of this Act, all rules made by a society which becomes an approved society or any branch thereof shall remain and be of the same force and effect as though this Act had not been passed.

Accounts: Valuations: Surplus and Deficit.

35. Approved societies to keep proper accounts.]—(1) Every approved society and every branch of an approved society must—

- (a) Keep its books and accounts under this Part of this Act separate from all other books and accounts of the society or branch, and in such form as may be prescribed by the Insurance Commissioners, and, when required, submit them to audit by auditors to be appointed by the Treasury;
- (b) Submit to have its assets and liabilities under this Part of this Act valued in accordance with the provisions of this Part of this Act;
- (c) In the event of a surplus or deficiency being shown upon any such valuation, comply with the provisions relating to surpluses and deficiencies herein-after contained;
- (d) Render such returns as the Insurance Commissioners may require.

(2) Regulations made under this section shall provide for a separate account being kept showing the amount expended on administration, and for limiting the amount which may be carried to that account out of the contributions under this Part of this Act, and for requiring any deficiency in such account (if not otherwise defrayed) to be met forthwith by a special levy.

(3) The provisions of this Part of this Act relating to accounts audit valuation and returns shall, as respects the transactions of any approved society or branch thereof under this Part of this

Act, be substituted for such of the provisions of any Act regulating the constitution of the society or branch as deal with the like matters.

(4) In the case of a society or branch transacting other business besides that of insurance business under this Part of this Act, all funds and credits of the society or branch under this Part of this Act shall be as absolutely the security of the members for the purposes of this Part of this Act as if they belonged to a society or branch carrying on no other business than such insurance business, and shall not be liable for any contracts of the society or branch for which they would not have been liable had the business of the society or branch been only that of such insurance, and shall not be applied directly or indirectly for any purposes other than those of insurance business under this Part of this Act.

Where a separate section of a society has been established and such separate section is an approved society under this Part of this Act, the expression "society" in this subsection means the society of which the separate section has been established and not the separate section.

36. Valuations of approved societies.—(1) A valuation of the assets and liabilities arising under this Part of this Act of every approved society and of every branch of an approved society shall be made by a valuer, to be appointed by or with the approval of the Treasury, at the expiration of every three years dating from the commencement of this Act, or at such other times as the Insurance Commissioners appoint; the times so appointed may be at shorter or longer intervals than three years and at regular or irregular intervals, and may apply to all approved societies or any particular society or societies.

(2) Every such valuation shall be made on such basis as may be prescribed.

37. Surplus.—(1) If upon any such valuation a surplus (certified by the valuer to be disposable) is found, the following provisions shall apply:—

(a) If the society is not a society with branches, the society may submit to the Insurance Commissioners a scheme for distributing out of such surplus any one or more additional benefits among insured persons who are members thereof for the purposes of this Part of this Act, and, upon any such scheme being sanctioned by the Insurance Commissioners, the society may distribute such additional benefit or benefits in accordance with the provisions thereof:

(b) If the society is a society with branches, any surplus in the central fund of the society, including any surplus transferred from the branches to the society under the provisions of this section, shall, subject to the provisions of the next succeeding section of this Act, be applied in the first instance towards making good any deficiency shown by any of its branches; and the society may distribute the balance of the surplus, after making good deficiencies as aforesaid, amongst such of its branches as have a surplus in proportion to the amounts of such surpluses, and the sum so apportioned to a branch shall be treated as an addition to the disposable surplus of that branch:

(c) If, on the valuation of a branch of an approved society, a surplus is shown in respect of such branch, there shall be transferred to the central body or other central authority of the society of which it is a branch one-third of the surplus, and the branch may, with the approval of the society, submit to the Insurance Commissioners a scheme for distributing out of the remaining two-thirds of such surplus, together with any such addition as aforesaid, any one or more additional benefits, and, upon any such scheme being sanctioned by the Insurance Commissioners, the branch may distribute such additional benefit or benefits in accordance with the provisions thereof:

(d) If, at any time after a scheme submitted by a society or branch has been so

sanctioned as aforesaid, there is found to be a deficiency in the funds of the society or branch, no additional benefits shall be distributed under the scheme until such deficiency is extinguished and a surplus shown.

(2) A scheme made under this section may prescribe the conditions to be complied with as respects any additional benefit conferred by the scheme, and every such scheme shall, so far as practicable, provide for the reduction, suspension, or deprivation of the additional benefits conferred by the scheme in the case of members who are in arrears, and may make a corresponding reduction in the amount to which such members are to be deemed to be in arrears for the purpose of reckoning the rate of sickness benefit.

(3) No surplus and no part of any surplus shall be applied for the purpose of paying any benefits payable on death or any benefits other than one or more of the additional benefits specified in Part II. of the Fourth Schedule to this Act.

38. Deficit.—(1) If upon any such valuation a deficiency is found, the following provisions shall apply:—

(a) If the deficiency is shown by a branch of an approved society, three-quarters, or, if the society thinks fit, the whole thereof, shall, in the first place, so far as possible, be made good out of any surplus available for that purpose in the hands of the central body or other central authority of the society:

Provided that the deficiency is due to any maladministration on the part of the branch in question, with the consent of the Insurance Commissioners, refuse to make good any part of the deficiency out of such surplus:

(b) Subject as aforesaid, every deficiency shall be made good in accordance with a scheme for that purpose to be prepared by the society, or, in the case of a deficiency in a branch, by the branch subject to the approval of the society, and submitted to the Insurance Commissioners for their sanction; such a scheme shall provide for making good the deficiency, within a period of three years from the date at which the valuation was made, in any one or more of the following ways:—

(i) By a compulsory levy, by way of increase of the weekly rate of contributions, upon members of the society or branch being insured persons;

(ii) By reducing the rate of sickness benefit either for the whole period during which sickness benefit is payable or for any part thereof;

(iii) By deferring the day as from which sickness benefit becomes payable;

(iv) By reducing the period during which sickness benefit is payable;

(v) By increasing the period which is required by this Part of this Act to elapse between two periods of disease or disablement to prevent the one being treated as a continuation of the other;

(vi) By any other method approved by the Insurance Commissioners, and, on the sanction of the Insurance Commissioners being given to the scheme, the society or branch shall proceed to make good the deficiency in accordance therewith:

(c) Payment of the amount of any compulsory levy made in accordance with a scheme sanctioned under this section may be enforced in such manner as may be provided by the rules of the society or branch; and, where those rules so provide, it shall be lawful for the society or branch in the case of any member to enforce payment of the amount of the levy by giving notice in the prescribed manner to the employer of such member requiring him to pay the amount of the levy, and, upon such notice being given, such amount shall be payable as if it

were part of the contribution to be paid by the employer on behalf of the member, and all the provisions of this Part of this Act relating to the payment of such contributions and the recovery thereof from members shall apply accordingly:

(d) If a member chargeable with a levy falls into arrears, his arrears shall reckon as though the total sum thereof, inclusive of the levy, consisted of the contributions payable by or in respect of him had no levy been made:

(e) If within six months after the declaration of a deficiency, or, where an enquiry as to excessive sickness is pending under this Part of this Act, such longer period as the Insurance Commissioners determine, such scheme as aforesaid has not been submitted to and sanctioned by the Insurance Commissioners, or if at any time thereafter it appears to the Insurance Commissioners that the society or branch to which the scheme relates is not enforcing the provisions of the scheme, the Insurance Commissioners may take over the administration of the affairs of the society or branch under this Part of this Act, and shall, as soon as possible thereafter, take such steps as they may think necessary to make good the deficiency by any or all of the methods mentioned in paragraph (b) of this section, and for that purpose they shall be entitled to exercise all or any of the powers given to the society or branch by this Part of this Act:

(f) The Insurance Commissioners after taking over the administration of the affairs of any society or branch shall within a reasonable time, not exceeding three years, make arrangements for the restoration to the society or branch of its powers of self-government or, failing that, for the transfer of the members of the society or branch, being insured persons, to other approved societies or branches or to the Post Office fund:

(g) Any question or dispute arising between the Insurance Commissioners and the society or branch in respect of the amount of the deficiency, or as to the adequacy of any scheme proposed for making it good, shall be submitted to an independent valuer to be appointed by the Lord Chief Justice, and such valuer shall, subject to the provisions of this Act and of the regulations thereunder, act, so far as practicable, on his own knowledge and experience, and shall have power to determine how and by what parties the costs of proceedings, including his own remuneration, not exceeding such amount as the Treasury may prescribe, are to be defrayed, and his decision shall be final and conclusive:

(h) A scheme made under this section shall not affect any person who becomes a member of the society or branch after the date as at which the valuation was made, or any member over seventy years of age:

(i) Any insured person who, having been a member of the society or branch at the date as at which the valuation disclosing the deficiency was made, is transferred to another society or to another branch of the same or any other society before the deficiency is made good, shall be liable to any levy or reduction of benefits which has been or may be made in respect of such deficiency in like manner in all respects as if he had not ceased to be a member, and if the transfer took place before the scheme imposing the levy or reduction of benefits was sanctioned, such adjustment in the amount of any transfer value paid in respect of him shall be made as the circumstances require.

(2) Any member liable to a levy payable at intervals may relieve himself of the liability

thereto, and a member subject to a diminution of benefits by virtue of any such scheme may, with the consent of the society or branch, acquire a right to undiminished benefits, on payment to the Insurance Commissioners of the capitalised value of the levy or diminution of benefits, as the case may be, ascertained in the prescribed manner.

39. Pooling arrangements in the case of small societies.—(1) Subject to the provisions of this section, all approved societies which at the date of any valuation have less than five thousand insured persons as members for the purposes of this Part of this Act shall, for the purposes of the valuation—

- (a) if they have joined an association formed under this section, be associated with the other societies in the same association; and
- (b) if they have not joined any such association, be grouped together according to the localities in which they carry on business.

(2) Any such societies may, with the consent of the Insurance Commissioners, form for the purposes of this section an association with a central financial committee, provided that the aggregate number of insured persons who are members of the associated societies is not less than five thousand, and the conditions on which a society shall be entitled or allowed to join, or having joined to secede from, an association, shall be such as may be prescribed.

(3) Any such society which has not joined any such association as aforesaid, and which carries on business in any county or county borough, shall, for the purposes of this section, be grouped with the other unassociated societies carrying on business in the same county or county borough.

(4) The provisions of this Part of this Act as to the application of surpluses of branches of societies with branches shall apply to such associated and grouped societies as if all the societies in any association or group were branches of a single society, subject to the following modifications:—

- (a) A reference to the central financial committee in the case of an association, and to the Insurance Committee for the county or county borough in the case of a group, shall be substituted for the reference to the central authority of the society;
- (b) The approval of the central financial committee or Insurance Committee shall not be required to any scheme prepared by an associated or grouped society for the distribution of any surplus.

(5) Where an associated or grouped society is a society with branches, the provisions of this Part of this Act relating to surpluses and deficiencies of societies with branches (except those requiring the approval of a society to a scheme prepared by a branch as to the distribution of a surplus or the making good of a deficiency) shall not apply to the society, but each branch shall, for the purposes of this section, be deemed to be a separate society.

(6) For the purposes of this section, a society shall be deemed to carry on business only in the county or county borough in which its registered office or other principal place of business is situate:

Provided that, where of the insured persons who are members of a grouped society at the date of any valuation more than one hundred or more than one-sixth reside in some county or county borough other than that in which the registered office or other principal place of business is situate, the proper proportion of any surplus or deficiency of the society shall, if application for the purpose is made by any of the Insurance Committees concerned, be apportioned to the Insurance Committee of that other county or county borough, such proportion to be determined, in default of agreement between the Insurance Committees concerned, by the Insurance Commissioners.

(7) The Insurance Commissioners may exempt from this section any society consisting of

persons entitled to rights in a superannuation or other provident fund established for the benefit of persons employed by one or more employers, if the employer, in addition to the contributions payable by him under this Part of this Act, is responsible for the solvency of the fund, or for the benefits payable thereout, or is liable to pay a substantial part of, or to make substantial contributions to, or substantially to supplement the benefits payable out of the fund, and this section shall not apply to any society to which such an exemption has been granted.

(8) Except so far as relates to the power of refusing to make good any part of a deficiency due to maladministration on the part of any society, nothing in this section shall be construed as conferring on any central financial committee or Insurance Committee any powers of control over the administration of associated or grouped societies.

40. Special provisions with regard to societies with branches.—(1) Where a society with branches is so organised that the branches in different geographical areas are grouped together for the purposes of this section, the branches in any such area may, if and to such extent as the rules of the society so provide, and if the number of members of the branches being insured persons in the area exceeds five thousand, be treated for the purposes of the provisions of this Part of this Act relating to valuations, surpluses, and deficiencies as if they formed a separate society.

(2) The rules of any society with branches may provide for the branches reinsuring with the society their liabilities in respect of any of the benefits under this Part of this Act, or, if the society is so organised as aforesaid, for such reinsurance either with the society or with the group.

(3) Where a society with branches has among its members insured persons who are not members of any branch, and the benefits of such members are administered by the society itself, such members shall be treated for the purposes of this Part of this Act relating to valuations, surpluses, and deficiencies as if they formed a separate branch.

41. Power to separate men's and women's funds.—Where an approved society, not being a society with branches, has amongst its members both men and women, and the rules of the society so provide, the provisions of this Part of this Act with respect to valuations, surpluses, and deficiencies shall apply to the society as if it were a society consisting of two branches, the one comprising the male members and the other comprising the female members.

Deposit Insurance.

42. Provisions as to deposit contributors.—Until the first day of January nineteen hundred and fifteen, the following provisions shall apply in the case of insured persons (in this Act referred to as deposit contributors) who have not joined an approved society within the prescribed time, or who, having been members of an approved society within the prescribed time, or who, having been members of an approved society, have been expelled or have resigned therefrom and have not, within the prescribed time, joined another approved society:—

- (a) Contributions by or in respect of a deposit contributor shall be credited to a special fund to be called the Post Office fund;
- (b) The sums required for the payment of any sickness, disablement, or maternity benefit payable to a deposit contributor, except so far as they are payable out of moneys provided by Parliament, shall be paid out of the money standing to his credit in the Post Office fund, and his right to benefits under this Part of this Act shall be suspended on the sums standing to his credit in that fund being exhausted, except that his right to medical benefit and sanatorium benefit shall continue until the expiration of the then current year, and that the Insurance Committee, if it has funds available for the purpose and thinks fit so to do, may allow him to continue to receive medical

benefit or sanatorium benefit or both such benefits after the expiration of such year:

- (c) Such sum as may be prescribed shall in each year be payable in respect of each deposit contributor towards the expenses incurred by the Insurance Committee in the administration of benefits;
- (d) Such sum as the Insurance Committee may, with the consent of the Insurance Commissioners, determine shall in each year be payable in respect of each deposit contributor for the purposes of the cost of medical benefit;
- (e) The sums payable in respect of a deposit contributor for the purposes of medical benefit and sanatorium benefit, and towards the expenses of administration, shall, except so far as they are payable out of moneys provided by Parliament, be deducted at the commencement of each year from the amount standing to his credit in the Post Office fund, and, if at the commencement of any year the amount so standing to his credit is insufficient to provide such sums, he shall not, unless the Insurance Committee consents, and except subject to such conditions as that committee may impose, be entitled to any benefits during that year.
- (f) Upon the death of a deposit contributor, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund shall be paid to his nominee or, in default of a nomination, to the person entitled to receive the sum as if it were money payable on the death of a member of a registered friendly society, and the balance thereof shall be forfeited, and sections fifty-six to sixty-one of the Friendly Societies Act, 1896, as amended by any subsequent enactment, shall, subject to the prescribed adaptations, apply accordingly;
- (g) Where a deposit contributor proves to the satisfaction of the Insurance Committee that he has permanently ceased to reside in the United Kingdom, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund may be paid to him.

43. Transfer from approved society to deposit insurance and vice versa.—(1) If an insured person, being a member of an approved society, ceases to be a member of that society, whether voluntarily or by expulsion, and fails to become within the prescribed time a member of another approved society, then—

- (a) if he becomes a deposit contributor, his transfer value shall be carried to his credit in the Post Office fund: Provided that, if a reserve value has been credited to the society in respect of him, such part of that reserve value as is still outstanding (or if the amount so outstanding exceeds the transfer value such part of the reserve value as is equal to the transfer value) shall be cancelled, and the amount, if any, by which the transfer value exceeds the amount so cancelled shall be carried to the credit of the deposit contributor;
 - (b) if he does not become a deposit contributor, his transfer value shall be carried to such account and dealt with in such manner as may be prescribed.
- (2) If an insured person who is a deposit contributor subsequently becomes a member of an approved society for the purposes of this Part of this Act, there shall be transferred to the society the amount standing to his credit in the Post Office fund:

Provided that—

- (a) if that amount exceeds the value of the contributions paid by or in respect of him estimated on the assumption that he had been a member of an approved society since his entry into insurance, the excess shall not be transferred to the society but shall be carried to the credit of the Post Office fund;

- (b) if that amount is less than such value, the insured person shall be treated as being in arrears to the amount of the deficiency.

Provisions as to Special Classes of Insured Persons.

44. Special provisions with respect to married women.—(1) Where a woman who has before marriage been an insured person marries, she shall be suspended from receiving the ordinary benefits under this Part of this Act until the death of her husband, and, if she is a member of an approved society, one-third of her transfer value shall be carried to a separate account called the married women's suspense account, but, if at any time after the death of her husband she becomes an employed contributor, the period between her marriage and the expiration of one month from the death of her husband shall be disregarded for the purpose of reckoning arrears, and there shall be transferred from the married women's suspense account to the society of which she is a member the proper reserve value calculated according to tables to be prepared by the Insurance Commissioners:

Provided that, where a woman who has been employed within the meaning of this Part of this Act before marriage, proves that she continues to be so employed after marriage, she shall not be so suspended so long as she continues to be so employed, and that, where a married woman so suspended from the ordinary benefits becomes employed within the meaning of this Part of this Act before the death of her husband, contributions shall thereupon again become payable in respect of her, and she shall cease to be suspended from receiving the ordinary benefits, but, subject to regulations made by the Insurance Commissioners, she shall, for the purposes of those benefits, be treated as if she had not previously been an insured person.

(2) Where a married woman being a member of an approved society is so suspended from the ordinary benefits as aforesaid, she may, if she so elects within one month after such suspension, or, subject to the consent of the society, after the expiration of that month, and notwithstanding that she is not engaged in any regular occupation, become whilst so suspended a voluntary contributor, subject to the following modifications, but not otherwise:—

- (a) The rate of contributions payable by her shall be three pence a week;
- (b) The benefits to which she shall be entitled shall be—
 - (i) medical benefit; and
 - (ii) sickness benefit and disablement benefit at the rates and subject to the conditions specified in Table D. of Part I. of the Fourth Schedule to this Act;
- (c) No part of her contributions shall be retained by the Insurance Commissioners for the purpose of discharging their liabilities to approved societies in respect of the reserve values created under this Act:

Provided that, where a married woman elects not to become such a voluntary contributor, she shall be entitled to have a sum equal to the remaining two-thirds of her transfer value applied in accordance with regulations of the Insurance Commissioners towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act until the same is exhausted, except that, where a reserve value was credited to the society in respect of such woman at the date of her entrance into insurance, so much of such sum as aforesaid as may be proscribed shall not be so applied but shall be written off the amount of the reserve values credited to the society.

(3) Where the husband of a married woman who has been so suspended from ordinary benefits as aforesaid and who is a member of an approved society dies, she may, if she is qualified to become a voluntary contributor, and elects to do so within one month after the death of her husband, become an ordinary voluntary contributor paying contributions at the rate which would have been applicable to the case had she

become such a contributor at the date of her entry into insurance:

Provided that she may, whether or not so qualified, if she so elects within one month after the death of her husband, continue to be or become a voluntary contributor on the same terms and subject to the same conditions as above provided as respects married women.

In either such case there shall be transferred from the married women's suspense account to the society the proper reserve value calculated as aforesaid.

(4) Where a married woman who was at the date of her marriage a deposit contributor is by virtue of this section suspended from the ordinary benefits under this Part of this Act, two-thirds of the sum standing to her credit in the Post Office fund shall be applied in accordance with the regulations of the Insurance Commissioners towards the payment of any of the benefits specified in Part III. of the Fourth Schedule to this Act until the same is exhausted.

(5) Where a woman who was a married woman at the commencement of this Act at any time subsequently either before or within one year after the death of her husband becomes an employed contributor and a member of an approved society, she shall be entitled to full benefits, notwithstanding that at the time of so becoming she is of the age of seventeen or upwards.

(6) Where any arrears of contributions have accrued due in respect of a married woman during coverture such arrears shall, on the death of her husband, be disregarded and she shall be thenceforth entitled to benefits as if such arrears had never accrued due.

(7) Except as provided by this section, a married woman shall not be entitled to become a voluntary contributor, and, if a woman is before marriage a voluntary contributor, she shall on marriage not be entitled to continue to be such a contributor.

(8) If a woman, whilst a voluntary contributor at such reduced rates of benefit as are provided by this section, becomes employed within the meaning of this Part of this Act, she shall be entitled to a certificate (to be granted in manner herein-before provided) exempting her from liability to become an employed contributor so, however, that such exemption shall not exempt the employer from his liability to pay contributions in respect of her, or deprive him of his right to recover such part of those contributions as is payable on her behalf, but of each weekly contribution so paid by the employer threepence shall be treated as her contribution as a voluntary contributor and the balance shall be applied for her benefit in such manner as the society may determine.

(9) If at any time the married women's suspense account is insufficient to meet the liabilities imposed on it by this section, the deficiency shall be made good out of the sums retained by the Insurance Commissioners for discharging their liabilities in respect of the reserve values created by this Act.

(10) Transfer value for the purposes of this section shall be calculated in such manner as the Insurance Commissioners may prescribe.

(11) Where a woman is a member of an approved society at the time when she is entitled to exercise an option under this section, it shall be the duty of the society to give her full information as to the nature of her rights.

(12) Where a deficiency has been found in respect of the society or branch of which a woman is a member at a valuation previous to the time when she became suspended from ordinary benefits under this Part of this Act, and that deficiency has not been made good at the time of her marriage, or where a woman is in arrears at that time, such adjustments in the sums transferred to the married women's suspense account, and in the balance of her transfer value, and in the rates of benefit to which she is entitled under this section, shall be made as the Insurance Commissioners may prescribe.

(13) Save as aforesaid, the provisions of this Part of this Act shall apply to a woman who has been married, both during and after coverture, in like manner as if she had never been married.

(14) This section shall apply in the case of a

woman whose marriage has been dissolved or annulled, or who has, for a period of not less than two years, been actually separated from or deserted by her husband, as if her husband had died at the date at which such dissolution or annulment took effect, or, as the case may require, at the expiration of such period of two years.

45. Special provisions as to aliens.—(1) This Part of this Act shall apply to persons of the age of seventeen or upwards at the date of entry into insurance who are not British subjects, subject to the following modifications:—

- (a) No such person shall be qualified to become a member of an approved society for the purposes of this Part of this Act, except upon the terms and subject to the conditions hereinafter mentioned;
 - (b) No part of the benefits to which such persons may become entitled shall be paid out of moneys provided by Parliament;
 - (c) The rate of sickness, disablement and maternity benefit shall, as respects a deposit contributor, be reduced, in the case of men, to seven-ninths, or in the case of women to three-quarters, of the rate to which they would otherwise be entitled under this Part of this Act;
 - (d) No part of the sums payable in respect of such persons for medical benefit and sanatorium benefit or towards the expenses of administration of benefits shall, in the case of such persons, be paid out of moneys provided by Parliament.
- (2) Where such a person becomes a member of an approved society the following provisions shall have effect:—
- (i) The contributions payable by or in respect of such person shall be credited to the society;
 - (ii) The society shall in each year pay to the Insurance Committee the whole of the sums payable in respect of such person for medical benefit and sanatorium benefit;
 - (iii) The rate and conditions of sickness benefit, and disablement benefit, and maternity benefit shall be such as may be determined by the society;
 - (iv) Such person shall not be deemed to have joined an approved society for the purposes of the provisions of this Part of this Act relating to reserve values, and no part of the contributions of such person shall be retained by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values.

(3) A woman who, having been a British subject before marriage, has ceased to be a British subject by reason of marriage with a person not being a British subject, shall not be subject to the provisions of this section if her husband is dead, or the marriage has been dissolved or annulled, or she has for a period of not less than two years been actually separated from or deserted by her husband.

(4) This section shall not apply to any person who, on the fourth day of May, nineteen hundred and eleven, was a member of a society which, or a separate section of which, becomes an approved society, and had then been resident in the United Kingdom for five years or upwards, or to any person who is transferred to an approved society or the Post Office fund in pursuance of an arrangement with the Government of any foreign State.

46. Special provisions with regard to persons in the naval and military service of the Crown.

—(1) For the purpose of providing seamen, marines, and soldiers with such benefits during their term of service and after their return to civil life as are herein-after in this section mentioned, there shall be deducted from the pay of every seaman and marine within the meaning of the Naval and Marine Pay and Pensions Act, 1865 (28 & 29 Vict., c. 73), and of every soldier of the regular forces (other than soldiers of His Majesty's Indian Forces, the Royal Malta Artillery, and native soldiers of any regiment raised outside the United Kingdom), the sum of

one penny halfpenny a week, and there shall be contributed by the Admiralty and the Army Council respectively, out of moneys provided by Parliament for navy and army services, in respect of every such seaman, marine, and soldier who has joined an approved society in the manner hereafter mentioned, the sum of one penny halfpenny per week, and, in respect of every other such seaman, marine, and soldier, such sum per week as may be prescribed:

Provided that no such deduction shall be made from the pay of a seaman, marine, or soldier who has completed the period of his first engagement and has re-engaged for pension unless he so elects within the prescribed time, and that no contribution shall be made by the Admiralty or Army Council in respect of any week in respect of which such a deduction is not made.

(2) A seaman, marine, or soldier—

(a) who was at the date of his entry or enlistment an insured person and had joined and was at that date a member of an approved society; or
(b) who within six months from the date of his entry or enlistment, or, in the case of a seaman, marine, or soldier serving at the commencement of this Act, within six months after the commencement of this Act, or within such longer period as may be prescribed, joins an approved society for the purposes of this Part of this Act; shall, for the purposes of this Part of this Act, be treated as if he were an employed contributor, subject, until his discharge, to the following modifications:—

(i) The employed rate shall be three pence, and the deductions made from his pay and the contributions made in respect of him by the Admiralty or Army Council shall be treated as the contributions paid in respect of him;
(ii) He shall not be entitled to medical benefit, sanatorium benefit, sickness benefit, or disablement benefit;
(iii) Maternity benefit shall be payable, notwithstanding that both he and his wife are resident outside the United Kingdom at the date of the confinement, and the society may arrange with the Admiralty or Army Council for the administration of the benefit through the Admiralty or Army Council;
(iv) The sum to be retained out of each weekly contribution by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values shall be one penny, and the remaining five-ninths of a penny shall be paid out of the Navy and Army Insurance Fund hereinafter constituted.
(3) With respect to seamen, marines, and soldiers who have not joined an approved society as aforesaid, the following provisions shall have effect:—

(a) The sums so deducted and the contributions so made as aforesaid in respect of such men shall be paid into the National Health Insurance Fund, and out of such sums there shall be retained by the Insurance Commissioners towards discharging their liabilities in respect of the reserve values created under this Part of this Act the like amount as if such men were members of approved societies, and the balance shall be credited to a special fund to be called the Navy and Army Insurance Fund:

(b) There shall also be paid into the Navy and Army Insurance Fund in each year out of moneys provided by Parliament a sum equal to two-ninths of the amount, calculated in the prescribed manner, which would have been payable in that year in respect of medical, sanatorium, sickness, and disablement benefits (including expenses of administration) had all seamen, marines, and soldiers from whose pay deductions are made under this section been members of approved societies and entitled to such benefits as employed contributors:

(c) The weekly contributions to be made by the Admiralty and Army Council in

respect of such men shall be such as may from time to time be required to keep the Navy and Army Insurance Fund solvent:

(d) If any such man was at the date of his entry or enlistment a deposit contributor, he shall, for the purpose of dealings with the sum standing to his credit in the Post Office fund, be treated as if the Navy and Army Insurance Fund had been an approved society, and he had at the date of his entry or enlistment become a member of that society:

(e) In the case of a seaman, marine, or soldier serving at the commencement of this Act, there shall be credited to the Navy and Army Insurance Fund such reserve value as would have been credited to an approved society had he at that date become a member of the society as an employed contributor: Provided that no such reserve value shall be credited to that fund if at the date aforesaid he had completed the period of his first engagement and had re-engaged for pension, unless he elects to have deductions made from his pay, or unless, not having so elected, he becomes on discharge entitled to benefits payable out of that fund as hereinafter mentioned:

(f) Every such man shall, until discharged, be entitled to maternity benefit payable out of the Navy and Army Insurance Fund, and shall be entitled to such benefit, notwithstanding that both he and his wife are at the date of the confinement resident outside the United Kingdom, and the benefit shall be administered by the Admiralty and Army Council either directly or through Insurance Committees:

(g) On the discharge of a seaman, marine, or soldier, from whose pay deductions have been made and continue to be made up to the date of his discharge, there shall be debited to the Navy and Army Insurance Fund, and, if he becomes a member of an approved society within the prescribed time from his discharge there shall be credited to that society, or, if he does not become a member of such a society within the prescribed time from his discharge, there shall, unless he becomes entitled to benefits out of the Navy and Army Insurance Fund as hereinafter mentioned, be carried to his credit in the Post Office fund the transfer value which would have been payable in respect of him had he been a member of an approved society throughout his period of service, or, in the case of a man serving at the date of the commencement of this Act, since that date, and, if he becomes a deposit contributor, so much of the reserve value, if any, credited to the Navy and Army Insurance Fund in respect of him shall be cancelled as would have been cancelled had he been transferred from an approved society to the Post Office fund:

(h) A man discharged from service as a seaman, marine, or soldier who proves that the state of his health is such that he cannot obtain admission to an approved society may, if he so elects, on making application to the Insurance Commissioners in the prescribed manner within three months of his discharge, or such longer time as may be prescribed, become, subject to regulations made by the Insurance Commissioners after consultation with the Admiralty and Army Council, entitled to benefits (other than additional benefits) provided under this Part of this Act at the full rate, the cost of which benefits shall be payable out of the Navy and Army Insurance Fund, and such benefits shall be administered by Insurance Committees or otherwise in such manner as may be prescribed by such regulations as aforesaid, and any

contributions paid under this Part of this Act by or in respect of him shall be paid into that fund:

Provided that—

(i) no deduction from benefits shall be made on account of any pension to which a man may be entitled;

(ii) the rate of sickness benefit shall be reduced, in the case of a man who entered into insurance when of the age of seventeen or upwards or who is in arrears, to the like extent as it would be reduced had he been an employed contributor and a member of an approved society who entered into insurance at the like age or who is in arrears to the like extent, so however that the rate of sickness benefit shall in no case be reduced below five shillings a week;

(iii) there shall in each year be repaid to the Navy and Army Insurance Fund, out of moneys provided by Parliament, a sum equal to two-ninths of the amount expended out of the fund on such benefits as aforesaid, including the expenses of administration;

(iv) if a man who is so entitled to benefits payable out of the Navy and Army Insurance Fund at any time becomes a member of an approved society for the purposes of this Part of this Act, he shall cease to be entitled to benefits payable out of that fund, and there shall be debited to that fund and credited to such society the transfer value which would have been so debited and credited if he had been at that time transferred from one approved society to another approved society.

(4) In the application of this Part of this Act to a man who is or has been a seaman, marine, or soldier, and to whom this section applies—

(i) the date of his entry or enlistment as a seaman, marine, or soldier, or, if he was serving at the commencement of this Act, the date of that commencement, shall, unless he was an insured person at the date of his entry or enlistment, be treated as the date of his entry into insurance;

(ii) deductions from pay, with the corresponding contributions made by the Admiralty and Army Council, shall be treated as payments of contributions at the employed rate for the purpose of reckoning the number of contributions made in respect of him, arrears, and transfer value, and for the purpose of qualifications for becoming a voluntary contributor;

(iii) a seaman, marine, or soldier during his term of service shall, if he has joined an approved society as aforesaid before his entry or enlistment, be deemed to reside in that part of the United Kingdom in which he resided immediately before his entry or enlistment, or if after his entry or enlistment, in the part of the United Kingdom in which the registered office or other principal place of business of the society or branch which he has joined is situate, and in any other case in England, and all persons entitled to benefits payable out of the Navy and Army Insurance Fund shall be deemed to reside in England.

(5) Discharge shall, in the case of a seaman, marine, or soldier who on the completion of any term of service is transferred to a reserve, include such transfer.

(6) This section shall not apply to a seaman, marine, or soldier who entered or enlisted before the age of sixteen until he attains that age, and on attaining that age shall apply to him as if he had entered or enlisted at the time when he attained that age.

(7) The foregoing provisions of this section shall, subject to such adaptations and modifica-

tions as may be prescribed, apply to men belonging to the Naval Reserves when employed on service during war or any emergency, and to men of the Army Reserve when called out on permanent service, and to men of the Territorial Force when called out on embodiment, but, except as aforesaid, shall not apply to any such men.

(8) Where a man of the Naval Reserves, the Army Reserve, or the Territorial Force is being trained and is in receipt of pay out of the moneys provided by Parliament for Navy or Army services, he shall, for the purposes of this Part of this Act, be deemed, whilst so training, to be employed within the meaning of this Part of this Act and to be in the sole employment of the Crown. Provided that this subsection shall not apply to a man who was not immediately before the training an insured person, except in such cases and under such circumstances as may be specified in a special order made by the Insurance Commissioners.

47. Special provisions where employer liable to pay wages during sickness.—(1) The Insurance Commissioners shall from time to time make special orders specifying any classes of employment in which a custom or practice is shown to their satisfaction to prevail according to which the persons employed receive full remuneration during periods of disease or disablement, or any part thereof, and, where the custom or practice is confined to certain localities, the order shall also specify the localities in which the custom prevails, and subject to the provisions of this section, the order may contain such incidental, supplemental, and consequential provisions as appear necessary for adapting the other provisions of this Part of this Act to cases under this section.

(2) It shall be lawful for any employer who employs persons in any class of employment specified in any such order, within a locality (if the custom is confined to certain localities) so specified, to give to the Insurance Commissioners the prescribed notice, and thereupon the employer shall, as respects all such persons, be subject to the liabilities, and this Part of this Act shall apply in respect of all such persons, subject to the modifications, herein-after mentioned.

(3) The employer shall be liable to pay full remuneration to every such person during any period or periods not exceeding six weeks in the aggregate in any one year during which such person may be suffering from any disease or disablement commencing while such person is in his employment, notwithstanding that such person may have left his employment before the expiration of that time:

Provided that, if any such person is engaged for a term of not less than six months certain, the employer shall be liable to pay full remuneration during any period of disease or disablement lasting less than six weeks, and for the first six weeks of any period of disease or disablement lasting more than six weeks, notwithstanding that the aggregate exceeds six weeks, but, where any such period extends beyond the term of the engagement, the employer shall not be liable to make any payment in respect of any part thereof after the expiration of such term.

(4) This Part of this Act shall apply in respect of persons so employed as aforesaid, subject to the following modifications:—

(a) Sickness benefit shall not be payable in respect of any period during which full remuneration is payable by the employer under this section, but, for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid for six weeks before the date as from which it becomes actually payable:

(b) The employed rate shall be reduced by two pence (or, where the employed contributor is a woman, one penny half-penny):

(c) The weekly contributions payable by the employer shall be reduced by one penny (or, where the employed contributor is a woman, one halfpenny, and the weekly contributions payable by the employed contributor shall be reduced by one penny:

(d) There shall be credited to the approved

society of which any such person is a member, or, if he is a deposit contributor, to his account in the Post Office fund, the difference between the amount of contributions at such reduced rate actually paid in respect of him and the amount which would have been paid if those contributions had been at the full rate, and the amount of that difference shall be treated as having been expended on sickness benefit and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament:

(e) Contributions shall not be payable in respect of any period of disease or disablement during which full remuneration is payable under this section if the prescribed notice has been given:

(f) The rules of an approved society or insurance Committee as to notices and proof of disease and disablement may extend to periods of disease and disablement during which full remuneration is payable under this section.

(5) Where a person on ceasing to be so employed becomes temporarily unemployed, paragraphs (b) and (d) of the last foregoing subsection shall continue to apply in respect of him, and sickness benefit shall not be payable in respect of the first six weeks of any period of disease or disablement commencing after he ceased to be so employed, but for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid during those six weeks, and notwithstanding anything in this Part of this Act a disease or disablement shall not, for the purposes of sickness benefit, be treated as a continuation of a previous disease or disablement unless the medical practitioner attending such person certifies that it in fact is so.

(6) Where such a person as aforesaid ceases to be employed within the meaning of this Part of this Act, and is entitled to become a voluntary contributor paying contributions at the employed rate, paragraphs (b) and (d) of subsection (4) shall, if he becomes a voluntary contributor, continue to apply in respect of him, and sickness benefit shall not be payable in respect of the first six weeks of any period of disease or disablement commencing after he became a voluntary contributor, but, for the purpose of calculating the rate and duration thereof, shall be deemed to have been paid during those six weeks, and, notwithstanding anything in this Part of this Act, a disease or disablement shall not, for the purposes of sickness benefit, be treated as a continuation of a previous disease or disablement unless the medical practitioner attending such person certifies that it in fact is so:

Provided that, if any such person at any time wishes to become an ordinary voluntary contributor, he may become such after the payment of twenty-six weekly contributions at the full rate, or, if the society of which he is a member consents, after the payment of such less number of such contributions as the society may appoint.

(7) Where any employers wish to avail themselves of the provisions of this section as respects the persons employed by them in a class of employment, or in a locality, in which no such custom or practice as aforesaid exists, they may apply to the Insurance Commissioners, and the Commissioners, if, after ascertaining the views of the persons so employed, they think fit, may make a special order extending the provisions of this section as respects the applicants to the class of employment or locality mentioned in the application as if it were a class of employment or locality in which such a custom or practice as aforesaid prevailed.

(8) Any question as to whether an employer is entitled to avail himself of the provisions of this section as respects any persons employed by him shall be determined by the Insurance Committee, subject to appeal to the Insurance Commissioners.

(9) The payment of contributions purporting to be at the reduced rate authorised by this section as respects any persons employed by an employer in any class of employment, shall be conclusive evidence that he is, as respects those persons and all other persons employed by him in the same

class of employment in the same locality, under the liability imposed by this section.

(10) An employer who has given such notice as aforesaid may, by giving three months' previous notice to the Insurance Committee, withdraw his notice as from the commencement of the next calendar year, and in such case, as from that date, this section shall cease to apply in respect of the persons employed by him in the class of employment to which the notice of withdrawal relates.

(11) None of the provisions of this section shall apply as respects any person employed at a rate of remuneration which is less than ten shillings a week.

(12) Nothing in this section shall relieve any employer from any legal liability to pay wages during sickness to any person employed by him in accordance with any established custom.

48. Special provisions as to the mercantile marine.—In the application of this Part of this Act to masters, seamen, and apprentices to the sea service and the sea fishing service, the following provisions shall have effect:—

(1) Neither sickness benefit nor disablement benefit shall be paid to a master, seaman, or apprentice suffering from any disease or disablement in respect of any period during which the owner of the ship is under the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), as amended by any subsequent enactment, or otherwise, liable to defray the expense of the necessary surgical and medical advice and attendance and medicine, and of his maintenance, but, for the purpose of calculating the rate and duration of sickness benefit, such benefit shall be deemed to have been paid from the commencement of the disease or disablement until the determination of such liability as aforesaid, and he shall not be entitled to medical benefit during such period:

(2) In the case of masters, seamen, and apprentices serving on foreign-going ships or ships engaged in regular trade on foreign stations, the employed rate and the employer's contributions shall each be reduced by one penny a week, and every four weekly contributions paid in any calendar year by a master, seaman, or apprentice whilst serving on such a ship, shall for the purposes of determining the number of contributions to be paid by him in that year and for the purposes of calculating arrears, be treated as five such contributions:

Provided that—

(a) nothing in this provision shall affect the number of employer's contributions to be paid in respect of such a master, seaman, or apprentice, but no employer's contributions paid in respect of any week in respect of which no contribution is payable by the master, seaman, or apprentice shall be taken into account in reckoning the amount of his arrears;

(b) there shall be credited to the approved society of which the master, seaman, or apprentice is a member, or, if he is a deposit contributor, to his account in the Post Office fund, a sum equal to two-fifths of the amount of the contributions actually paid in respect of him, and an equal sum shall be treated as having been expended on sickness benefit, and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament:

(3) A master, seaman, or apprentice who is neither domiciled nor has a place of residence in the United Kingdom shall not be deemed to be employed within the meaning of this Part of this Act, but the employer shall be liable to pay the same contributions in respect of him as would otherwise have been payable by him as employer's contributions, except in cases where the ship is engaged in regular trade on foreign stations:

- (4) The Board of Trade shall, as soon as may be after the passing of this Act, cause a society to be formed, to be called the Seamen's National Insurance Society, of which any masters, seamen, and apprentices to the sea service and the sea fishing service who are employed within the meaning of this Part of this Act shall be entitled to become members, but nothing in this section shall prevent any such person joining another approved society instead of the society so formed:
- (5) The affairs of the Seamen's National Insurance Society shall be managed by a committee constituted in accordance with a scheme to be prepared by the Board of Trade with the approval of the Insurance Commissioners, comprising representatives of the Board of Trade, of ship-owners, and of members of the society in equal proportions, and the society shall, notwithstanding anything in this Part of this Act, become an approved society:
- (6) All contributions paid by employers in respect of masters, seamen, or apprentices who are neither domiciled nor have a place of residence in the United Kingdom, and consequently deemed not to be employed within the meaning of this Part of this Act, shall be credited to the Seamen's National Insurance Society:
- (7) In addition to medical, sanatorium, sickness, disablement, and maternity benefits, members of the Seamen's National Insurance Society shall be entitled to such other benefits as may be provided under a scheme to be prepared by the committee of management, with the approval of the Board of Trade and the Insurance Commissioners, and such other benefits shall include pensions for masters and seamen with long sea service, and the scheme may provide for preference being given to masters and seamen who have served in foreign-going ships or ships engaged in foreign trade over those who have served in the coasting and home trade ships, and such preference may be proportionate to the length of time spent in the first-mentioned service:
- Provided that—
- (a) the scheme shall provide for making a proper proportion of the sums credited to the Seamen's National Insurance Society under the last foregoing subsection applicable towards the payment of pensions or superannuation allowances granted by other approved societies to members with such sea service that, had they been members of the Seamen's National Insurance Society, they would have been entitled to pensions under the scheme; and
- (b) in the case of the transfer of a member of the society to another approved society, the transfer value payable in respect of him shall be calculated with reference to the liabilities of the society for benefits other than such pensions as aforesaid:
- (8) The rules of the Seamen's National Insurance Society shall provide for allowing a member who leaves the sea service and is unable to obtain admission to another approved society on account of the state of his health to continue a member of the Seamen's National Insurance Society for the purposes of this Part of this Act, and the rules of that society may provide that a member of the society who has fulfilled the conditions entitling him to such pension as aforesaid shall not be deprived of his right to the pension by reason only that he has ceased to be a member of the society at the time when the pension first becomes payable or ceases so to be at any subsequent time:
- (9) Where a master, seaman, or apprentice is

at the commencement of this Act a member of a society which becomes an approved society he may, if that society and the Seamen's National Insurance Society so agree, continue to be a member of the first-mentioned society for the purposes of benefits under this Part of this Act other than pension, and become a member of the last-mentioned society for the purposes of pension only, and in such case the balance of the contributions payable in respect of him (after deducting the sums to be retained by the Insurance Commissioners towards discharging their liabilities in respect of reserve values) shall be divided between the two societies in such proportion as they may agree:

- (10) Expressions in this section have the same meaning as in the Merchant Shipping Acts, 1894 to 1907, but the expressions "foreign-going ships" and "home trade" ships include ships engaged in the sea fishing service, and the expression "ship engaged in regular trade on foreign stations" means a ship engaged regularly in trade between ports outside the British Islands when trading between such ports, but, for the purposes of this provision, a ship shall not be deemed not to be engaged in such a trade by reason only that she puts into a port in the United Kingdom for the purpose of survey or repair:
- (11) The provisions of this Part of this Act affecting the employed rate and the rates of contributions of employers and contributors in Ireland, and depriving insured persons in Ireland of medical benefit, shall not apply to any such master, seaman, or apprentice, unless he has a permanent place of residence in Ireland and is not a member of the Seamen's National Insurance Society; and, in the case of a master, seaman, or apprentice serving on a foreign-going ship or a ship engaged in foreign trade to whom such provisions do apply the amount by which the employed rate and the employer's contributions are to be reduced shall be one halfpenny a week:
- (12) Members of the Seamen's National Insurance Society shall, for the purposes of this Part of this Act, be deemed to reside in England, and the medical benefit and sanatorium benefit of such members shall be administered by the society instead of by the Insurance Committee, and the provisions of this Part of this Act relating to the administration of those benefits shall apply accordingly subject to such modifications as may be prescribed; but nothing in this provision shall prevent the society agreeing with Insurance Committees for the administration of those benefits by the Committees in relation to individual members of the society.

49. Provisions as to persons over sixty-five at commencement of Act.—(1) If any person who is of the age of sixty-five or upwards and under the age of seventy at the commencement of this Act is employed within the meaning of this Part of this Act, the like contributions shall, until he attains the age of seventy, be payable by his employer in respect of him as in the case of employed contributors, and the provisions of this Part of this Act relating to the payments of contributions and the recovery thereof shall apply accordingly.

(2) For every weekly contribution made by or in respect of such a person, there shall be contributed out of moneys provided by Parliament the sum of two pence.

(3) If such a person becomes a member of an approved society for the purposes of this section all contributions payable in respect of him under this section (including contributions out of moneys provided by Parliament) shall be credited to the society, and he shall become entitled to such benefits as the society may determine, but

no reserve value shall be credited to the society in respect of him and no part of the contributions payable in respect of him shall be retained by the Insurance Commissioners towards the discharge of their liabilities in respect of reserve values.

(4) If such a person does not become a member of an approved society as aforesaid he shall become a deposit contributor, and accordingly all contributions payable in respect of him (including contributions out of moneys provided by Parliament) shall be carried to his credit in the Post Office fund, but the benefits to which he becomes entitled shall be such as may be determined by the Insurance Committee.

(5) No part of the cost of benefits under this section shall be payable out of moneys provided by Parliament.

50. Special provisions as to seasonal trades.—Where it is proved to the satisfaction of the Insurance Commissioners that a trade or business carried on by any employers is of a seasonal nature and subject to periodical fluctuation, and that those employers systematically employ persons throughout the year and work short time during the season when the trade or business is depressed, the Insurance Commissioners may make a special order reducing, as respects such persons, the employed rate and the contributions payable by the employers and contributors to such extent and for such period in the year as may be specified in the order, and increasing such rate and contributions to a corresponding extent and for a corresponding period during the remainder of the year, and the order may contain such incidental, supplemental, and consequential provisions as may appear necessary for adapting the other provisions of this Part of this Act to cases under this section.

51. Special provisions as to inmates of charitable homes, &c.—(1) Where the managers of any institution carried on for charitable or reformatory purposes prove that the persons who are inmates of and supported by the institution receive maintenance and medical attendance when sick, the Insurance Commissioners may grant a certificate of exemption to those managers, and, where such a certificate of exemption is granted, any such inmates who are employed by the managers of the institution shall not, in respect of such employment, be deemed to be employed within the meaning of this Part of this Act:

Provided that it shall be a condition of such exemption that the managers shall be liable to pay in respect of any such inmate who, having been an inmate of the institution for more than six months, leaves the institution, the following sums:—

- (a) In the case of a person who was at the time of entering the institution below the age of sixteen, such capital sum as will be sufficient to secure him benefits under this Part of this Act at the full rate;
- (b) In the case of a person who was at the time of entering the institution of the age of sixteen or upwards, and who was at that time an insured person and a member of an approved society, a sum equal to the value, calculated in the prescribed manner, of the contributions which, apart from this section, would have been payable in respect of him during the time he was in the institution.

(2) Every such inmate as aforesaid shall, if he was an insured person before entering the institution, be suspended from benefits whilst he is such an inmate, and, if he was at such time a member of an approved society and has been an inmate of the institution for a period exceeding six months, the time during which he is in the institution shall be disregarded for the purpose of reckoning arrears.

52. Special provision as to persons becoming certificated teachers.—Where a person who has been employed to teach in a public elementary school ceases to be employed within the meaning of this Part of this Act by reason of becoming a teacher to whom the Elementary School

Teachers (Superannuation) Act, 1898 [61 & 62 Vict. c. 57], applies and does not become a voluntary contributor, there shall be paid to the Board of Education by the approved society of which he is a member or, if he is not a member of an approved society, out of the amount standing to his credit in the Post Office fund, a sum equal to the value calculated in the prescribed manner of the contributions paid by or in respect of him under this Part of this Act since he first began to teach in a public elementary school, or, if the amount standing to his credit is less than that sum, then the whole amount so standing to his credit; and the sum so paid to the Board of Education shall be placed by them to his credit in the Deferred Annuity fund in accordance with the rules for the time being applicable thereto.

53. Application to other persons in the service of the Crown.—(1) This Part of this Act shall apply to persons employed by or under the Crown, other than those with respect to whom special provision is made by this Part of this Act, in like manner as if the employer were a private person:

Provided that, in the case of a person employed in the private service of the Crown, the head of the department of the Royal Household in which he is employed shall be deemed to be his employer.

(2) The provisions of this Act relating to reduced insurance in cases where the employer is liable to pay wages during sickness shall extend in respect of persons employed by or under the Crown to cases where two-thirds only of the full remuneration are payable during periods, or parts of periods, of disease or disablement, if such remuneration is so payable for not less than three months in any year, and those provisions shall apply accordingly as if two-thirds of the full remuneration were substituted for the full remuneration and as if three months were substituted for six weeks as the maximum amount of time during any year such remuneration is payable.

Financial Provisions.

51. National Health Insurance Fund.—(1) All sums received in respect of contributions under this Part of this Act and all sums paid out of moneys provided by Parliament under this Part of this Act in respect of the benefits thereunder and the expenses of administration of such benefits shall be paid into a fund, to be called the National Health Insurance Fund, under the control and management of the Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and insurance committees for the purposes of the benefits administered by them and the administration of such benefits shall be paid out of that fund.

(2) The sums payable to the said fund out of moneys provided by Parliament shall be paid in such manner and at such times as the Treasury may determine.

(3) The Insurance Commissioners shall ascertain periodically what sums standing in the National Health Insurance Fund to the credit of the several societies and of the Post Office fund and of the Navy and Army Insurance Fund are available for investment, and the amount so ascertained shall, so far as not required under the provisions of this Part of this Act to be paid over to societies for investment, or to be retained for investment on their behalf, or for the discharge of liabilities of societies, be carried to a separate account, called the Investment Account, and shall be paid over to the National Debt Commissioners and by them invested in accordance with regulations made by the Treasury in any securities which are for the time being authorised by Parliament as investments for Savings Banks funds, but those Commissioners shall, in making the investment, give preference to stock or bonds issued under the provisions of the Acts relating to borrowing for raising capital for the purposes of the local loans fund, where the purposes for which such capital is required is the making of advances for the purposes of the Housing of the Working Classes Acts, 1890 to 1909:

Provided that nothing in this provision shall prevent the Insurance Commissioners paying over to the National Debt Commissioners for temporary investment, pending the ascertainment of the amount available for investment as aforesaid, any sums in the National Health Insurance Fund not required to meet current liabilities.

(4) There shall be credited to the Post Office fund and to the Navy and Army Insurance Fund interest at the prescribed rate per annum on the sums from time to time standing to the credit of those funds in the Investment Account.

(5) The accounts of the National Health Insurance Fund shall be audited by the Comptroller and Auditor-General in such manner as the Treasury may direct.

(6) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of the said fund are for the time being invested.

55. Reserve values.—(1) The Insurance Commissioners shall cause tables to be prepared showing, in cases in which such provision is necessary, the capital sums (in this Part of this Act referred to as "reserve values") which it is necessary to provide in respect of members entering into insurance at ages over the age of sixteen to meet the estimated loss (if any) arising through the acceptance by an approved society of such persons as members upon the terms and conditions as regards contributions and benefits prescribed by this Part of this Act.

(2) On a person of the age of seventeen or upwards joining an approved society for the purposes of this Part of this Act, there shall be credited to the society the reserve value (if any) appropriate to such person in accordance with such tables.

The sums so credited to a society in respect of reserve values shall carry interest at the rate of three per centum per annum.

(3) Out of each weekly contribution paid by or in respect of an insured person who is a member of an approved society (other than a voluntary contributor who entered into insurance within six months after the commencement of this Act and at the date of that entry was of the age of forty-five years or upwards) there shall be retained by the Insurance Commissioners the sum of one penny and five-ninths (or in the case of women one penny halfpenny), and the amounts so retained shall, together with any other moneys available for the purpose, be applied in manner provided by this Part of this Act towards discharging the liabilities of the Insurance Commissioners to approved societies in respect of the reserve values created by this section.

(4) The Insurance Commissioners shall periodically apportion amongst the several societies, including the Navy and Army Insurance Fund, the sums retained by them, and the sums, if any, otherwise available for the discharge of such liabilities as aforesaid, in proportion to the amount of reserve values for the time being credited to the several societies, and shall credit to each society the amount so apportioned, and any balance of the sums so credited to a society, after providing for interest on the reserve values for the time being credited to the society, shall be written off the amount of the reserve values so credited.

(5) If any person is convicted of the offence of knowingly making any false statement as to his age in any declaration made for the purpose of obtaining a reserve value to be credited to an approved society in respect of him, the reserve value shall be cancelled, and the member of the society in respect of whom it was credited shall be treated as if he had entered into insurance after the expiration of one year from the commencement of this Act.

56. Transactions between the Insurance Commissioners and societies.—(1) The Insurance Commissioners shall, subject to the approval of the Treasury, make regulations with respect to crediting and debiting to the several societies sums received and paid by the Insurance Commissioners on behalf of and to societies and as to the payments to be made by and to the Commissioners to and by societies, and those regulations shall, amongst other things,—

(a) provide for crediting to each society the contributions paid by or in respect of the members of the society after deducting the amounts retained thereout for discharging the liabilities of the Insurance Commissioners in respect of reserve values;

(b) require the Insurance Commissioners, on carrying any sum to the credit of an approved society in the investment account, to pay over to the society for investment, or, at the request of the society, to retain for investment on behalf of the society, four-sevenths, or, so far as the sums are attributable to women, one-half, of the amount so credited to the society;

(c) provide for crediting to each society interest at the prescribed rate per annum on the sums for the time being standing to the credit of the society in the investment account;

(d) provide for the discharge of debit balances in such manner as the Insurance Commissioners determine, either by the reduction of the reserve values credited to the society or out of the proceeds of the realisation of securities held by the society or by the Commissioners on behalf of the society, and out of the sums standing to the credit of the society in the investment account, proportionately:

Provided that, in the case of any society which gives notice to that effect to the Insurance Commissioners, no part of the sums carried to the credit of the society in the investment account shall be paid over to the society or retained by the Commissioners for investment on its behalf, but the whole amount shall remain to the credit of the society in the investment account, and in such case the regulations made under the foregoing provisions shall apply to the society subject to the prescribed modifications.

(2) Every approved society shall invest any sums paid to the society for investment, and shall for the purpose have power to invest in any securities in which trustees are for the time being by law empowered to invest trust funds, or in any stocks, mortgages, or other securities issued by any local authority within the meaning of the Local Loans Act, 1875 [38 & 39 Vict. c. 83], and charged on any rates levied by or on the order or precept of such authority, or in any other securities for the time being approved by the Insurance Commissioners.

(3) Where, at the request of a society, the Insurance Commissioners, instead of paying over any sum to the society, retain such sum for investment on behalf of the society, they shall invest such sum in accordance with the directions of the society in any securities in which the society might have invested it had it been paid over to the society, and shall from time to time vary such investments in accordance with the like directions, and shall pay over to the society all sums received by way of interest or dividend on the investments held by them on behalf of the society.

(4) Every approved society shall apply the sums received by way of interest or dividend on investments held by the society or by the Insurance Commissioners on behalf of the society towards the cost of the benefits under this Part of this Act of the members of the society and the cost of the administration of those benefits, or otherwise, as the Insurance Commissioners may prescribe.

Insurance Commissioners: Advisory Committee.

57. Constitution of Insurance Commissioners, appointment of inspectors, &c.—(1) As soon as may be after the passing of this Act there shall be constituted for the purposes of this Part of this Act Commissioners (to be called the Insurance Commissioners), with a central office in London, and with such branch offices as the Treasury may think fit, and the Commissioners shall be appointed by the Treasury, and of the Commissioners so appointed one at least shall be a duly qualified medical practitioner who has had personal experience of general practice.

(2) The Insurance Commissioners may sue and be sued, and may for all purposes be described

by that name, and shall have an official seal which shall be officially and judicially noticed, and such seal shall be authenticated by any Commissioner or the secretary to the Commissioners, or some person authorised by the Commissioners to act on behalf of the secretary.

(3) The Insurance Commissioners may appoint such officers, inspectors, referees, and servants, for the purposes of this Part of this Act as the Commissioners, subject to the approval of the Treasury as to number, may determine, and there shall be paid out of moneys provided by Parliament to the Commissioners and to such officers, inspectors, referees, and servants, such salaries or remuneration as the Treasury may determine; and any expenses incurred by the Treasury (including the remuneration of valuers and auditors appointed by the Treasury) or the Commissioners in carrying this Part of this Act into effect, to such extent as the Treasury may sanction, shall be defrayed out of moneys provided by Parliament.

(4) Every document purporting to be an order or other instrument issued by the Insurance Commissioners and to be sealed with the seal of the Commissioners authenticated in manner provided by this section, or to be signed by the secretary to the Commissioners or any person authorised by the Commissioners to act on behalf of the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

(5) The Insurance Commissioners may empower any inspector appointed by them to exercise in respect of any approved society or any branch of an approved society all or any of the powers given by section twenty-six of the Friendly Societies Act, 1896 [59 & 60 Vict. c. 25], to an inspector appointed thereunder:

Provided that any complaint or report as to any such branch as aforesaid made by an inspector under this subsection shall be communicated to the central body or other central authority of the society.

58. Appointment of Advisory Committee.]—The Insurance Commissioners shall, as soon as may be after the passing of this Act, appoint an Advisory Committee for the purpose of giving the Insurance Commissioners advice and assistance in connexion with the making and altering of regulations under this Part of this Act, consisting of representatives of associations of employers and approved societies, of duly qualified medical practitioners who have personal experience of general practice, and of such other persons as the Commissioners may appoint, of whom two at least shall be women.

Insurance Committees.

59. Appointment of Insurance Committees.]

(1) An Insurance Committee shall be constituted for every county and county borough.

(2) Every such committee shall consist of such number of members as the Insurance Commissioners, having regard to the circumstances of each case, determine, but in no case less than forty or more than eighty, of whom—

(a) three-fifths shall be appointed in such manner as may be prescribed by regulations of the Insurance Commissioners so as to secure representation of the insured persons resident in the county or county borough who are members of approved societies, and who are deposit contributors, in proportion, as nearly as may be, to their respective numbers;

(b) one-fifth shall be appointed by the council of the county or county borough;

(c) two members shall be elected in manner provided by regulations made by the Insurance Commissioners, either by any association of duly qualified medical practitioners resident in the county or county borough which may have been formed for that purpose under such regulations, or, if no such association has been formed, by such practitioners;

(d) one member or, if the total number of the committee is sixty or upwards, two members, or, if the total number of the committee is eighty, three members, shall be duly qualified medical practitioners

appointed by the council of the county or county borough;

(e) the remaining members shall be appointed by the Insurance Commissioners:

Provided that—

(i) The regulations with respect to the appointment of members to represent insured persons shall provide for conferring on the approved societies which have members resident in the county or county borough the power of appointing the representatives of such members, and, where an association of the deposit contributors resident in the county or county borough has been formed under such regulations as aforesaid, for conferring on such association the power of appointing the representatives of the deposit contributors;

(ii) Of the members appointed by the council of the county or county borough two at least shall be women, and of the members appointed by the Insurance Commissioners one at least shall be a duly qualified medical practitioner and two at least shall be women.

(3) The Insurance Commissioners may, where any part of the cost of medical benefit or sanatorium benefit is defrayed by the council of the county or county borough, increase the representation of the council and make a corresponding diminution in the representation of the insured persons.

(4) The Insurance Commissioners may make regulations as to the appointment, quorum, term of office, and rotation of members and proceedings generally (including the appointment of sub-committees consisting wholly or partly of members of the committee) of the committee, and the employment of officers and the provision of offices by the committee, including the use by the committee, with or without payment, of any offices of a local authority, but subject to the consent of such authority, and any such regulations may provide for the constitution of district insurance committees, and for apportioning amongst the several district insurance committees any of the powers and duties of the Insurance Committee and regulating the relations of district insurance committees to the Insurance Committee and to one another:

Provided that the regulations so made shall require the Insurance Committee of every county (except in cases where, owing to special circumstances, the Commissioners consider it unnecessary) within six months after the commencement of this Act to prepare after consultation with the county council and submit for approval to the Commissioners a scheme for the appointment of district insurance committees for the county and prescribing the area to be assigned to each such committee, and in particular the scheme shall provide for the appointment of a district insurance committee for each borough (including the City of London and a metropolitan borough) within the county having a population of not less than ten thousand, and for each urban district within the county with a population of not less than twenty thousand, but, if the Insurance Committee or, on appeal, the Insurance Commissioners consider it expedient in the case of any such borough (outside London) or urban district, any adjoining areas may be grouped with such borough or urban district for the purpose of the appointment of a district insurance committee.

(5) Any Insurance Committee may, and shall if so required by the Insurance Commissioners, combine with any one or more other Insurance Committees for all or any of the purposes of this Part of this Act, and, where they so combine, the provisions of this Part of this Act shall apply with such necessary adaptations as may be prescribed.

60. Powers and duties of Insurance Committees.]—(1) The Insurance Committee of a county or county borough shall, in addition to the other powers and duties conferred and imposed on it by this Part of this Act, have the following powers and duties:—

(a) It shall make such reports as to the

health of insured persons within the county or county borough as the Insurance Commissioners, after consultation with the Local Government Board, may prescribe, and shall furnish to them such statistical and other returns as they may require, and may make to them such other reports on the health of such persons and the conditions affecting the same, and may make such suggestions with regard thereto as it may think fit, and the Insurance Commissioners shall forward to the councils of the counties, boroughs, and urban and rural districts, which appear to them to be affected by or interested in any such reports, returns, or suggestions, copies of such reports, returns, and suggestions, and the reports and returns so made shall include such analysis and classification to be made of the persons who are deposit contributors:

(b) It shall make such provision for the giving of lectures and the publication of information on questions relating to health as it thinks necessary or desirable, and may, if it thinks fit, for that purpose make arrangements with local education authorities, universities, and other institutions:

(c) It shall keep proper books and accounts in the prescribed form and shall, when required, submit such accounts to audit by auditors appointed by the Treasury.

(2) For the purpose of assisting Insurance Committees in the exercise and performance of their powers and duties under this Part of this Act, and with a view to promoting co-operation between such committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of an Insurance Committee and with the consent of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power.

(3) For the purposes of this section, the council of a borough includes the mayor, aldermen, and commons of the City of London in common council assembled, and the council of a metropolitan borough.

61. Income.]—(1) All sums available for sanatorium benefit in a county or county borough, and all sums payable in respect of the members of approved societies and deposit contributors resident in the county or county borough for the purposes of medical benefit and administrative expenses in any year, shall be paid or credited to the Insurance Committee at the commencement of that year.

(2) There shall also be paid to the Insurance Committee in every year by each approved society having members who are insured persons resident in the county or county borough, in respect of each such member, the sum of one penny towards the administrative expenses of the committee:

Provided that, if the special circumstances of any county are such that the Insurance Commissioners consider that the travelling expenses of the members of the committee should be repaid to them by the committee, the Insurance Commissioners may authorize such repayment, and in such case may increase the said sum of one penny to such sum, not exceeding twopence, as they may determine.

(3) It shall be lawful for any local authority, out of any fund or rate out of which the expenses of the authority are payable, to subscribe such sums as it may think fit towards the general purposes of the Insurance Committee.

62. Local medical committees.]—Where a local medical committee has been formed for any county or county borough or for any area for which a district committee has been formed and the Insurance Commissioners are satisfied that such committee is representative of the duly qualified medical practitioners resident in the county or county borough or such area as aforesaid, they shall recognise such committee, and, where a local medical committee has been so

recognised, it shall, subject to regulations made by the Insurance Commissioners, be consulted by the Insurance Committee or district committee, as the case may be, on all general questions affecting the administration of medical benefit, including the arrangements made with medical practitioners giving attendance and treatment to insured persons, and shall perform such other duties, and shall exercise such powers, as may be determined by the Insurance Commissioners.

Excessive Sickness.

63. Inquiries into causes of excessive sickness, &c.]—(1) Where it is alleged by the Insurance Commissioners or by any approved society or Insurance Committee that the sickness which has taken place among any insured persons, being, in the case where the allegation is made by a society or committee, persons for the administration of whose sickness and disablement benefits the society or committee is responsible, is excessive, and that such excess is due to the conditions or nature of employment of such persons, or to bad housing or insanitary conditions in any locality, or to an insufficient or contaminated water supply, or to the neglect on the part of any person or authority to observe or enforce the provisions of any Act relating to the health of workers in factories, workshops, mines, quarries, or other industries, or relating to public health, or the housing of the working classes, or any regulations made under any such Act, or to observe or enforce any public health precautions, the Commissioners or the society or committee making such allegation may send to the person or authority alleged to be in default a claim for the payment of the amount of any extra expenditure alleged to have been incurred by reason of such cause as aforesaid, and, if the Commissioners, society, or committee and such person or authority fail to arrive at any agreement on the subject, may apply to the Secretary of State or the Local Government Board, as the case may require, for an inquiry, and thereupon the Secretary of State or Local Government Board may appoint a competent person to hold an inquiry.

(2) If, upon such inquiry being held, it is proved to the satisfaction of the person holding the inquiry that the amount of such sickness has—

- (i) during a period of not less than three years before the date of the inquiry; or
- (ii) if there has been an outbreak of any epidemic, endemic or infectious disease, during any less period;

been in excess of the average expectation of sickness by more than ten per cent., and that such excess was in whole or in part due to any such cause as aforesaid, the amount of any extra expenditure found by the person holding the inquiry to have been incurred under this Part of this Act by any societies or committees where the allegation is made by the Insurance Commissioners, or, if the allegation is made by a society or committee, by the society or committee in question, by reason of such cause shall be ordered by him to be made good in accordance with the following provisions:—

- (a) Where the excess or such part thereof as aforesaid is due to the conditions or nature of the employment or to any neglect on the part of any employer to observe or enforce any such Act or regulation as aforesaid, it shall be made good by the employer;

- (b) Where such excess or such part thereof as aforesaid is due to bad housing or insanitary conditions in the locality, or to any neglect on the part of any local authority to observe or enforce any such Act or regulation or such precautions as aforesaid, it shall be made good by such local authority as appears to the person holding the inquiry to have been in default, or, if due to the insanitary condition of any particular premises, shall be made good either by such authority or by the owner, lessee, or occupier of the premises who is proved to the satisfaction of the person holding the inquiry to be responsible;

- (c) Where the excess or such part thereof as aforesaid is due to an insufficient or contaminated water supply, it shall be made good by the local authority, company, or person by whom the water is supplied, or who having imposed upon them the duty of affording a water supply have refused or neglected to do so, unless the local authority, company, or person prove that such insufficiency or contamination was not due to any default on the part of the authority, company, or person, but arose from circumstances over which they had no control.

(3) Where any such inquiry as aforesaid is held in respect of bad housing or insanitary conditions in any locality, it shall be lawful for the local authority to serve notice upon the owner, lessee, or occupier of any premises which are the subject-matter of the inquiry, and, where it is proved that such a notice has been served and that any such extra expense as aforesaid, or any part thereof, has been caused by the act or default of such owner, lessee or occupier, the person holding the inquiry may order the owner, lessee or occupier to repay to the local authority the amount of the extra expenditure or part thereof which has been so caused.

(4) For the purpose of this section, the average expectation of sickness shall be calculated in accordance with the tables prepared by the Insurance Commissioners for the purpose of valuations under this Part of this Act, but any excessive sickness attributable to any disease or disablement which is due to any disease or injury in respect of which damages or compensation are payable under the Employers' Liability Act, 1880, or the Workmen's Compensation Act, 1906, or at common law, shall not be taken into account.

(5) The Insurance Commissioners shall make regulations as to the procedure on inquiries under this section, and a person holding an inquiry under this section shall have all such powers as an inspector of the Local Government Board has for the purposes of an inquiry under the Public Health Acts, and shall have power to order how and by what parties costs, including such expenses as the Secretary of State or Local Government Board may certify to have been incurred by them, are to be paid, and an order made by such person under this section may, by leave of the High Court, be enforced in the same manner as a judgment or order of the Court to the same effect:

Provided that a society or committee shall not be ordered to pay the costs of the other party to the inquiry if the person holding the inquiry certifies that the demand for an inquiry was reasonable under the circumstances, and, when he so certifies, the Treasury may repay to the society or committee the whole or any part of the costs incurred by it.

(6) Without prejudice to any other method of recovery, any sum ordered under this section to be paid by a local authority may, in accordance with the regulations of the Local Government Board with the approval of the Treasury, be paid out of the Local Taxation Account and deducted from any sums payable either directly or indirectly out of that account to the local authority.

(7) For the purposes of this section, any expenditure on any benefit administered by an Insurance Committee shall be deemed to be expenditure of that Committee, but any sums paid to any such Committee under this section to meet extra expenditure on sickness benefit or disablement benefit shall be dealt with for the benefit of deposit contributors in accordance with regulations made by the Insurance Commissioners.

(8) Where under this section any sum is paid to the Insurance Commissioners, the Insurance Commissioners shall apply the same in discharge of any expenses incurred by the Commissioners under this section and shall distribute the balance amongst the societies and committees which appear to the Commissioners to have incurred extra expense on account of the excessive sickness in such proportions as the Commissioners think just.

(9) Where an association of deposit contributors resident in any county or county borough has been formed under regulations made by the

Insurance Commissioners, the Insurance Committee for the county or county borough shall, if so required by the association, take proceedings under this section on behalf and at the expense of the association.

Supplementary Provisions.

64. Provision of sanatoria, &c.]—(1) If under any other Act of the present session any sum is made available for the purposes of the provision of or making grants in aid to sanatoria and other institutions for the treatment of tuberculosis or such other diseases as the Local Government Board with the approval of the Treasury may appoint, such sum shall be distributed by the Local Government Board with the consent of the Treasury in making grants for those purposes, and the Treasury before giving their consent shall consult with the Insurance Commissioners:

Provided that such sum shall be apportioned between England, Wales, Scotland, and Ireland in proportion to their respective populations ascertained in accordance with the returns of the census taken in the year nineteen hundred and eleven.

(2) If any such grant is made to a county council, the Local Government Board may authorise the county council to provide any such institution, and, where so authorised, the county council shall have power to erect buildings and to manage and maintain the institution and for that purpose to enter into agreements and make arrangements with Insurance Committees and other authorities and persons, and to do all such things as may be necessary for the purposes aforesaid, and any expenses of the county council, so far as not defrayed out of the grant, shall be defrayed out of the county fund as expenses for general county purposes, or, if the order of the Local Government Board so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order.

(3) For the purpose of facilitating co-operation amongst county councils, county borough councils, and other local authorities (not being Poor Law authorities) for the provision of such sanatoria and other institutions as aforesaid, the Local Government Board may by order make such provisions as appear to them necessary or expedient, by the constitution of joint committees, joint boards, or otherwise, for the joint exercise by such councils and authorities of their powers in relation thereto, and any such order may provide how, in what proportions, and out of what funds or rates the expenses of providing such institutions, so far as they are not defrayed out of grants under this section, are to be defrayed, and may contain such consequential, incidental, and supplemental provisions as may appear necessary for the purposes of the order, and an order so made shall be binding and conclusive in respect of the matters to which it relates.

(4) An Insurance Committee may, with the consent of the Insurance Commissioners, enter into agreements with any person or authority (other than a Poor Law authority) that, in consideration of such person or authority providing treatment in a sanatorium or other institution or otherwise for persons recommended by the Committee for sanatorium benefit, the Committee will contribute out of the funds available for sanatorium benefit towards the maintenance of the institution or provision of such treatment, such annual or other payment, and subject to such conditions and for such period as may be agreed, and any such agreement shall be binding on the Committee and their successors, and any sums payable by the Committee thereunder may be paid by the Insurance Commissioners and deducted from the sums payable to the Committee for the purposes of sanatorium benefit.

65. Power to Insurance Commissioners to make regulations, &c.]—The Insurance Commissioners may make regulations for any of the purposes for which regulations may be made under this Part of this Act or the schedules therein referred to, and for prescribing anything which under this Part of this Act or any such schedules is to be prescribed, and generally for carrying this Part of this Act into effect, and any regulations so made shall be laid before both

Houses of Parliament as soon as may be after they are made, and shall have effect as if enacted in this Act:

Provided that, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, His Majesty in Council may annul the regulation, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

66. Determination of questions by Insurance Commissioners.—(1) If any question arises—

- (a) as to whether any employment or any class of employment is or will be employment within the meaning of this Part of this Act or as to whether a person is entitled to become a voluntary contributor; or
- (b) as to the rate of contributions payable by or in respect of any insured person; or
- (c) as to the rates of contributions payable in respect of an employed contributor by the employer and the contributor respectively;

the question shall be determined by the Insurance Commissioners, in accordance with regulations made by them for the purpose: Provided that—

- (i) if any person feels aggrieved by the decision of the Insurance Commissioners on any question arising under paragraph (a), he may appeal therefrom to the county court, with a further right of appeal upon any question of law to such judge of the High Court as may be selected for the purpose by the Lord Chancellor, and the decision of that judge shall be final;
 - (ii) the regulations of the Insurance Commissioners may provide for questions under paragraph (b) being determined, in the case of any person who is or is about to become a member of an approved society, by the society;
 - (iii) the Insurance Commissioners may, if they think fit, instead of themselves deciding whether any class of employment is or will be employment within the meaning of this Part of this Act, submit the question for decision to the High Court in such summary manner as subject to rules of court may be directed by the court, and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question, and the decision of the court shall be final.
- (2) This section shall come into operation on the passing of this Act.

67. Disputes.—(1) Subject to the provisions of the foregoing section every dispute between—

- (a) An approved society or a branch thereof and an insured person who is a member of such society or branch or any person claiming through him;
- (b) An approved society or branch thereof, and any person who has ceased to be a member for the purposes of this Part of this Act of such society or branch, or any person claiming through him;
- (c) An approved society and any branch thereof;
- (d) Any two or more branches of an approved society;

relating to anything done or omitted by such person, society, or branch (as the case may be) under this Part of this Act or any regulation made thereunder, shall be decided in accordance with the rules of the society, but any party to such dispute may, in such cases and in such manner as may be prescribed, appeal from such decision to the Insurance Commissioners.

(2) Every dispute between an insured person and the Insurance Committee, relating to anything done or omitted by such person or the Insurance Committee under this Part of this Act, or any regulation made hereunder, shall be decided in the prescribed manner by the Insurance Commissioners.

(3) The Insurance Commissioners may authorise referees appointed by them to decide any appeal or dispute submitted to the Insurance Commissioners under this section.

(4) The Insurance Commissioners may make regulations as to the procedure on any such appeal or dispute, and such regulations may apply any of the provisions of the Arbitration Act, 1889 [52 & 53 Vict. c. 49], but, except so far as it may be so applied, the Arbitration Act, 1889, shall not apply to proceedings under this section, and any decision given by the Insurance Commissioners or a referee under this section shall be final and conclusive.

68. Protection against distress and execution in certain cases.—(1) Where the medical practitioner attending on any insured person in receipt of sickness benefit certifies that the levying of any distress or execution upon any goods or chattels belonging to such insured person and being on premises occupied by him, or the taking of any proceedings in ejectment or for the recovery of any rent or to enforce any judgment in ejectment against such person, would endanger his life, and such certificate has been sent to the Insurance Committee and has been recorded in manner herein-after provided, it shall not be lawful during any period named in the certificate for any person to levy any such distress or execution or to take any such proceedings or to enforce any such judgment against the insured person:

Provided that, if any person desirous of levying such distress or execution or taking such proceedings or enforcing such judgment disputes the accuracy of the certificate, he may apply to the registrar of the county court, who, if he is of opinion that the certificate should be cancelled or modified, may make an order cancelling or modifying it, and no appeal shall lie against any such order or a refusal to make any such order.

(2) A certificate granted for the purpose of this section shall continue in force for one week or such less period as may be named in the certificate, but may be renewed from time to time for any period not exceeding one week, up to but not beyond the expiration of three months from the date of the grant of the original certificate, but no such renewal shall have effect unless sent to the Insurance Committee and recorded as aforesaid:

Provided that the protection conferred by this section shall not extend beyond the expiration of one month from such date if, on demand being made by the person desirous of levying such distress or execution, or taking such proceedings, or enforcing such judgment, proper security is not given for payment of rent thereafter to become due from the insured person or the amount of the judgment debt, as the case may be, and any dispute as to the sufficiency of the security shall be determined by the registrar of the county court whose decision shall be final and not subject to appeal.

(3) If any person knowingly levies or attempts to levy any such distress or execution or takes any such proceedings or enforces or attempts to enforce any such judgment in contravention of this section, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(4) A certificate or renewal thereof granted under this section shall forthwith be sent to the Insurance Committee, and the Committee shall, unless it has reason to suspect its genuineness, record it in a special register without fee, and such register shall, at all reasonable times, be open to inspection; and, where so recorded, its genuineness shall not be questioned in any proceedings against a sheriff or other officer for failure to levy any distress or execute any warrant.

(5) Where the time within which a warrant may be executed is limited, any period during which the warrant cannot be executed by reason of the provisions of this section shall be disregarded in computing the time within which the warrant may be executed.

69. Offences.—(1) If, for the purpose of obtaining any benefit or payment or the crediting of a reserve value under this Part of this Act, either for himself or for any other person, any person knowingly makes any false statement

or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour.

(2) If any employer has failed to pay any contributions which under this Part of this Act he is liable to pay in respect of an employed contributor, or if any such employer, any insured person, or any other person is guilty of any other contravention of or non-compliance with any of the requirements of this Part of this Act or the regulations made thereunder in respect of which no special penalty is provided, he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds, and where the offence is failure or neglect on the part of the employer to make any such contributions, to pay to the Insurance Commissioners a sum equal to the amount of the contributions which he has so failed or neglected to pay, which sum when paid shall be treated as a payment in satisfaction of such contributions:

Provided that no person shall be liable to any penalty in respect of any matter if he has acted in conformity with any decision in respect thereto by the Insurance Commissioners, or, if the matter is one which the Insurance Committee is competent to decide, in conformity with its decision.

70. Civil proceedings against employer for neglecting to pay contributions.—(1) Where an employer has failed or neglected to pay any contributions which under this Part of this Act he is liable to pay in respect of a person being a member of an approved society in his employment, and by reason thereof that person has been deprived in whole or in part of his right to any benefits which would otherwise have been payable to him, he shall be entitled to take proceedings against the employer for the value of the right of which he has been so deprived, and in any such proceedings the employer may be ordered to pay to the Insurance Commissioners a sum equal to the value so ascertained, which sum when paid shall be carried to the credit of the society of which such person is a member, and thereupon such person shall thenceforth be entitled to receive from the society benefits at the same rate as he would have been entitled to had the contributions been properly paid, together with the difference between the amount of the benefits (if any) he has actually received and the benefits he would have received had the contributions been properly paid.

(2) Proceedings may be taken under either this or the last preceding section notwithstanding that proceedings have also been taken under the other section in respect of the same failure or neglect to pay contributions.

71. Repayment of benefits improperly paid.

—If it is found at any time that a person has been in receipt of any payment or benefit under this Part of this Act without being lawfully entitled thereto he, or in the case of his death his personal representatives, shall be liable to repay to the Insurance Commissioners the amount of such payment or benefit, and any such amount may be recovered as a debt due to the Crown and when so recovered shall be carried to the credit of the society of which such person was a member, or if he was not a member of any approved society, of the Post Office fund.

72. Provisions as to application of existing funds of friendly societies.

—(1) Every registered friendly society which provides benefits similar to any of those conferred by this Part of this Act, shall submit to the Registrar of Friendly Societies a scheme for continuing, abolishing, reducing, or altering such benefits as respects members who become insured persons and for continuing, abolishing, or reducing the contributions of such members, so, however, that the combined effect of the alteration of the benefits and contributions shall not prejudicially affect the solvency of the society, and, if the scheme or a supplementary scheme shows on an actuarial valuation that, owing to the alterations in the benefits and contributions effected by the scheme, any part of the existing funds of the society is set free as not being required to meet the liabilities of the society, the scheme or the supplementary scheme shall provide for the application of the

part of the funds so set free in any one or more of the following ways:—

- (a) towards the cost of the provision of other or increased benefits payable by the society independently of this Part of this Act to existing members whether insured persons or not;
 - (b) in reduction of the contributions payable by such members in respect of the benefits payable by the society independently of this Part of this Act;
 - (c) towards the payment or repayment of contributions payable under this Part of this Act by such of its existing members as are entitled and elect to receive benefits under this Part of this Act through the society.
- (2) This section shall apply to branches of registered societies in like manner as to societies: Provided that a society with branches may, if it so desires (subject always to the exercise of any right of a branch, expressly conferred by the rules of the society, to dispose of any of its funds for the benefit solely of the members of the branch), submit a scheme applicable to all its branches, and it shall be competent for the society to provide by its scheme or supplementary scheme for the application of the whole or any part of any sums so set free towards the discharge of any deficiencies in any of its branches which may be found to exist on such actuarial valuation as aforesaid.
- (3) Any scheme adopted by a society or branch of a society in accordance with its rules when confirmed by the Registrar of Friendly Societies shall be deemed to be incorporated in the registered rules of the society or branch and may be amended accordingly, so, however, that no amendment shall be inconsistent with the provisions of this section.
- (4) This section shall apply to seamen, marines, and soldiers, from whose pay deductions are made under this Part of this Act as if they were insured persons, and for the purposes of this section "existing" means existing at the passing of this Act.
- (5) This section shall come into operation on the passing of this Act.

73. Provisions as to existing employers' provident funds.—(1) Where at the passing of this Act a superannuation or other provident fund has been established for the benefit of the persons employed by one or more employers, the provisions of the last foregoing section shall apply with the necessary adaptations and with this modification that, where under the Act, deed, or other instrument establishing the fund or otherwise any sum is payable by the employer towards benefits secured by the Act or deed, and those benefits include benefits similar to any of those conferred by this Part of this Act, the scheme may provide for allowing the employer to deduct from any contributions payable by him as aforesaid towards benefits of a nature similar to those under this Part of this Act an amount not exceeding the amount of the employer's contributions payable by him under this Part of this Act.

(2) Where the fund is one out of which pensions or superannuation allowances are payable, and it is proved to the satisfaction of the Insurance Commissioners that the rearrangements required in consequence of this Part of this Act will, upon a valuation under the existing rules of the fund, affect prejudicially the sum available for the payment of pensions or superannuation allowances, the Insurance Commissioners may grant a certificate authorising the value of the prospective extension of benefits under this Part of this Act when the reserve values have been written off as herein-before provided, to be brought into account in the valuation of the assets available for the discharge of the liabilities of the fund in respect of pensions and superannuation allowances.

74. Provisions as to minors who are members of approved societies.—Any member of an approved society who is a minor may execute all instruments and give all acquittances necessary to be executed or given under the rules of such society, but shall not be a member of the committee, or a trustee, manager, or treasurer of such society or any branch thereof.

75. Power for societies to register under Friendly Societies Act, 1896.—Any society for the purpose of carrying on business under this Act, either alone or together with any purpose mentioned in section eight, subsection (1), of the Friendly Societies Act, 1896, may, after the passing of this Act, be registered as a friendly society under the Friendly Societies Act, 1896, notwithstanding that the contributions under this Act are not voluntary.

76. Application of Acts of Parliament to approved societies and sections.—(1) Except in so far as may be inconsistent with this Part of this Act, any business transacted under this Part of this Act by any approved society shall be treated as part of the ordinary business transacted by societies of the class to which that society belongs, and any enactment applying to the society in relation to the transaction of such ordinary business shall apply accordingly in relation to the business transacted by the society under this Part of this Act.

(2) This section shall apply to an approved society which in a separate section of another body, subject to the necessary adaptation.

77. Powers of the Local Government Board.—(1) The Local Government Board may, for the purposes of their powers and duties under this Part of this Act, hold such local inquiries and investigations as they may think fit, and the Board and their inspectors shall have for the purposes of such an inquiry the same powers as they respectively have for the purposes of an inquiry under the Public Health Acts, and the expenses incurred by the Board in respect of such inquiries and other proceedings under this Part of this Act (including the salary of any inspector or officer of the Board engaged in the inquiry or proceedings, not exceeding three guineas a day) shall be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by the authority or person shall be a debt from that authority or person to the Crown: Provided that this provision shall not apply to inquiries with respect to responsibility for excessive sickness.

(2) Any approval given by the Local Government Board under this Part of this Act may be given for such term, and subject to such conditions as the Board may think fit, and the Board shall have power to withdraw any approval which they have given.

(3) The Local Government Board may make it a condition of any approval to be given, or grant of money to be made under this Part of this Act, that the Board shall have such powers of inspection as may be agreed.

78. Power to remove difficulties.—If any difficulty arises with respect to the constitution of Insurance Committees, or the advisory committee, or otherwise in bringing into operation this Part of this Act, the Insurance Commissioners, with the consent of the Treasury, may by order make any appointment and do anything which appears to them necessary or expedient for the establishment of such committees or for bringing this Part of this Act into operation, and any such order may modify the provisions of this Act so far as may appear necessary or expedient for carrying the order into effect: Provided that the Insurance Commissioners shall not exercise the powers conferred by this section after the first day of January nineteen hundred and fourteen.

79. Interpretation.—For the purposes of this Part of this Act, unless the context otherwise requires,—

The expression "branch," in relation to a society, shall not include any branch of the society which is not itself separately registered;

The expression "disease or disablement" means such disease or disablement as would entitle an insured person to sickness or disablement benefit;

The expression "dependants," in relation to any person, includes such persons as the approved society or Insurance Com-

mittee shall ascertain to be wholly or in part dependent upon his earnings;

A person whose normal occupation is employment within the meaning of this Part of this Act shall, for the purpose of reckoning the number and rate of contributions, be deemed to continue to be an employed contributor notwithstanding that he is temporarily unemployed, but, if such period of unemployment extends beyond twelve months, he shall not continue to be an employed contributor unless the approved society of which he is a member or, if he is not a member of such a society, the Insurance Committee, is satisfied that his unemployment is due to inability to obtain employment, and is not due to any change in his normal occupation;

The suspension of a member of an approved society from benefits under this Part of this Act shall not be deemed to deprive the member of his membership;

Membership of an approved society means membership for the purposes of this Part of this Act;

The expression "valuer" means a person possessing actuarial qualifications as may be approved by the Treasury;

The expression "county" means administrative county;

The Scilly Isles shall be deemed to be a county and the council of those Isles the council of a county, but the Insurance Committee for the Scilly Isles shall be constituted in such manner as the Insurance Commissioners prescribe;

Monmouthshire shall be deemed to form part of Wales;

A person shall be deemed according to the law in England, Wales, and Ireland, as well as according to the law in Scotland, not to have attained the age of seventeen until the commencement of the seventeenth anniversary of the day of his birth, and similarly with respect to other ages.

80. Application to Scotland.—This Part of this Act in its application to Scotland shall be subject to the following modifications:—

(1) For the purpose of carrying this Part of this Act into effect in Scotland, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Scotland (to be called the Scottish Insurance Commissioners) with a central office in Edinburgh, and with such branch offices in Scotland as the Treasury may think fit, and the Scottish Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Scottish Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifications, apply to the payment of the salaries and remuneration of the Scottish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them and to the payment of expenses incurred by the Treasury or the Scottish Insurance Commissioners in carrying this Part of this Act into effect in Scotland, and for the purpose aforesaid the Scottish Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them shall respectively have all the like powers and duties as are, by the provisions of this Act,

conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Scottish Insurance Commissioners:

- (2) All sums received from contributions under this Part of this Act in respect of insured persons resident in Scotland, and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of this Act to such persons, and the expenses of administration of such benefits shall be paid into a fund to be called the Scottish National Health Insurance Fund, under the control and management of the Scottish Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund, and the foregoing provisions of this Act, with respect to the National Health Insurance Fund, shall, with the necessary modifications, apply to the Scottish National Health Insurance Fund accordingly:
- (3) The expression "Local Government Board" means the Local Government Board for Scotland (in this section referred to as the Board): Provided that, as regards the making of regulations respecting sums payable out of the Local Taxation (Scotland) Account, the said expression means the Secretary for Scotland; the expression "Local Taxation Account" means the Local Taxation (Scotland) Account; and the expression "inspector of the Local Government Board" includes a person acting under section seven or section eight of the Public Health (Scotland) Act, 1897 [60 & 61 Vict. c. 38]:
- (4) The expression "county borough" means a burgh or police burgh within the meaning of the Local Government (Scotland) Act, 1889 [52 & 53 Vict. c. 50] (in this section referred to as the Act of 1889), containing within the police boundaries thereof according to the census of nineteen hundred and eleven a population of twenty thousand or upwards, and includes the burgh of Dumfries and the police burgh of Maxwelltown, as if they were a single burgh, and all other burghs and police burghs shall, for the purposes of this Part of this Act, be held to be within the county, and unless already represented on the county council shall, for the purposes of this Part of this Act, be represented thereon as may be determined by the Secretary for Scotland: Provided that references to the council of a county borough shall, in the case of Dumfries and Maxwelltown, be construed as references to a joint committee of the town councils thereof which shall from time to time be appointed subject to the provisions of section seventy-six of the Act of 1889:
- (5) References to a county and the county council thereof shall, as regards—
 - (a) the counties of Kinross and Clackmannan; and
 - (b) the counties of Elgin and Nairn; be construed in each case as references respectively to a combination of the two recited counties and to a joint committee of the county councils thereof which shall from time to time be appointed subject to the provisions of section seventy-six of the Act of 1889:
- (6) The minimum number of an insurance committee for any area containing a population of less than forty thousand shall be twenty-five instead of forty; and, where a number less than forty is fixed, the constitution of the committee may be varied as may be prescribed, so,

however, that the proportion of members to be appointed by insured persons and by a county or town council and the number of members possessing a medical qualification shall not be altered:

- (7) No person, except a medical practitioner qualified as such, shall be qualified for appointment as member of an Insurance Committee by a county or town council unless he is a member of a local authority within the county under the Public Health (Scotland) Act, 1897, or of the town council, as the case may be; but this requirement shall not apply to women if women so qualified are not available:
- (8) Before submitting for approval a scheme prescribing areas to be assigned to district committees, the Insurance Committee of a county shall consult with the county council, or any committee thereof appointed for the purpose, and shall consider any representation received from them:
- (9) Where, owing to sparseness of population, difficulties of communication, or other special circumstances, they consider it desirable, an Insurance Committee shall have the power, with the consent of the Scottish Insurance Commissioners, to modify or suspend any benefits for the administration of which they are responsible; but, where such modifications or suspension takes place, provision shall be made by the Committee, with the like consent, for the increase of other benefits or the grant of one or more additional benefits to an amount equivalent to the value of the modification or suspension:
- (10)—(a) If it appears to any county council that, having regard to the number of employed contributors resident in the county who are not members of any society approved under the foregoing provisions of this Act, it is desirable that steps should be taken for the establishment under the council of an approved society for the county (in this section referred to as a county society) the council may, at any time before the expiration of one year from the commencement of this Act, submit to the Scottish Insurance Commissioners a scheme for the establishment of a county society;
- (b) The scheme may provide for—
 - (i) the representation of the council on the committee of management of the society;
 - (ii) the appointment of officers subject to the approval of the council;
 - (iii) the delegation of powers to committees;
 - (iv) the giving of security by means of a charge upon the general purposes rate or otherwise;
 - (v) the restriction of membership to insured persons resident in the county not being members of any other approved society;
 - (vi) the reduction of benefits below the minimum rates fixed by this Part of this Act; and
 - (vii) such other matters as may appear necessary, and in particular such further modifications of the provisions of this Part of this Act with respect to approved societies as may be required for the purpose of adapting those provisions to the case of a county society;
- (c) Where such a scheme has been approved by the Scottish Insurance Commissioners, the provisions of the scheme shall have effect, notwithstanding anything to the contrary in this Part of this Act; and, subject to those provisions, the county society shall be an approved society for all the purposes of this Part of this Act;
- (d) A county council desirous of submitting a scheme under this section may, at any

time after the passing of this Act, take such steps as appear necessary with a view to ascertaining what insured persons resident in the county are eligible and willing to become members of the proposed county society, and generally for the formation of the society;

- (11) A person appointed in terms of the section of this Act relating to excessive sickness to hold an inquiry shall report to the authority appointing him, and any further action following on such inquiry which, in accordance with the provisions of that section, is to be or may be taken by the person making the inquiry, shall not be taken by him, but may be taken by that authority after consideration of the report, and that section shall be read and construed accordingly:
- (12) Expenses incurred by a county council under this Part of this Act shall be defrayed out of the general purposes rate; provided that, notwithstanding anything contained in the Act of 1889, the ratepayers of a police burgh shall not be assessed by the county council for any such expenses unless the police burgh is, for the purposes of this Part of this Act, held to be within the county; and provided further that, with respect to every burgh within the meaning of the Act of 1889, which is, for the purposes of this Act, held to be within the county, subsection (3) and subsection (4) of section sixty, and section sixty-six, of the Act of 1889, shall, so far as applicable, have effect as if such expenses were expenditure therein mentioned:
- (13) Expenses incurred by a town council under this Part of this Act (whether under requisition from the county council or otherwise) shall be defrayed out of the public health general assessment, but shall not be reckoned in any calculation as to the statutory limit of that assessment; and references to the borough fund or borough rate shall be construed accordingly:
- (14) The expression "borough" and the expression "urban district" mean a burgh or police burgh within the meaning of the Act of 1889, and the expressions "rural district" and "council of a rural district," unless inconsistent with the context, mean respectively a district of a county within the meaning of the said Act and the district committee thereof: Provided that the population limit prescribed for boroughs and urban districts in the subsection of this Act relating to the appointment of district committees for these areas shall not apply:
- (15) The expression "Lord Chief Justice" means the Lord President of the Court of Session:
- (16) The expression "county court" means the sheriff court; and, in lieu of an appeal from the county court upon any question of law, there shall be substituted an appeal from the Sheriff upon any question of law in terms of subsection (17) (b) of the Second Schedule to the Workmen's Compensation Act, 1906: Provided that the decision of either division of the Court of Session on such appeal shall be final;
- (17) The expression "workhouse" means poorhouse; "coverture" means marriage; "levy any distress or execution" means use any diligence; "ejectment" means removing; "amount of judgment debt" means amount decreed for; "registrar of the county court" means court exercising jurisdiction in the proceedings; "certified midwife" means any midwife possessing such qualifications as may be prescribed; "public elementary school" means public school; "Public Health Acts" means the Public Health (Scotland) Acts, 1897 and 1907; "Local

Loans Act 1875" means the Local Authorities Loans (Scotland) Acts, 1891 and 1893, 54 & 55 Vict. c. 54, 56 & 57 Vict. c. 8; and "High Court" means Court of Session:

- (18) Unless inconsistent with the context, references to the Elementary School Teachers' Superannuation Act, 1898, to the deferred annuity fund under that Act, and to the Board of Education, shall be construed, respectively, as references to section fourteen of the Education (Scotland) Act, 1908, [8 Edw. 7. c. 63], and a scheme thereunder to the Scottish Teachers' Superannuation Fund, and to the Scotch Education Department.

81. Application to Ireland.—This Part of this Act, in its application to Ireland, shall be subject to the following modifications:—

- (1) For the purpose of carrying this Part of this Act into effect in Ireland, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Ireland (to be called the Irish Insurance Commissioners), with a central office in Dublin, and with such branch offices in Ireland as the Treasury may think fit, and the Irish Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Irish Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifications, apply to the payment of the salaries and remuneration of the Irish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them and to the payment of expenses incurred by the Treasury or the Irish Insurance Commissioners in carrying this Part of this Act into effect in Ireland, and for the purpose aforesaid the Irish Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them shall respectively have all the like powers and duties as are by the provisions of this Act conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Irish Insurance Commissioners:
- (2) All sums received from contributions under this Part of this Act in respect of insured persons resident in Ireland and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of this Act to such persons and the expenses of administration of such benefits shall be paid into a fund to be called the Irish National Health Insurance Fund, under the control and management of the Irish Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund and the foregoing provisions of this Act with respect to the National Health Insurance Fund shall, with the necessary modifications, apply to the Irish National Health Insurance Fund accordingly:

- (3) The provisions of this Part of this Act conferring a right to exemption shall extend to any person employed in harvesting or other agricultural work who proves—

(a) that he is an Irish migratory labourer, that is to say, a person who, having a permanent home at some place in Ireland, has temporarily removed to some other place in Ireland or to Great Britain for the purpose of obtaining such employment; and

(b) that he ordinarily resides at such permanent home for not less than twenty-six weeks in the year and is not employed within the meaning of this Part of this Act whilst so resident;

and any contributions paid in Great Britain by the employer of a person holding a certificate of exemption by virtue of this provision shall be transferred to the Irish Insurance Commissioners for the purpose of being carried to such account and being dealt with in such manner as may be prescribed by the regulations made in that behalf by the Irish Insurance Commissioners:

- (4) Employment in Ireland as an outworker, where the wages or other remuneration derived from the employment are not the principal means of livelihood of the person employed, shall be deemed to be included amongst the excepted employments specified in Part II. of the First Schedule to this Act:

- (5) The reference to the Lord Chancellor shall be construed as a reference to the Lord Chancellor of Ireland;

The reference to the Lord Chief Justice shall be construed as a reference to the Lord Chief Justice of Ireland;

The reference to the Local Government Board, as regards the making of regulations with respect to payments out of the Local Taxation Account, shall be construed as a reference to the Lord Lieutenant, and other references to the Local Government Board shall be construed as references to the Local Government Board for Ireland, and the reference to the Local Taxation Account shall be construed as a reference to the Local Taxation (Ireland) Account:

- (6) A reference to the Housing of the Working Classes (Ireland) Acts, 1890 to 1908, shall be substituted for the reference to the Housing of the Working Classes Acts, 1890 to 1909, a reference to the Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for the reference to the Public Health Acts and a reference to the rate or fund applicable to the purposes of the Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for any reference to the borough rate or borough fund:

- (7)—(a) If it appears to any county council that, having regard to the number of employed contributors resident in the county who are not members of any society approved under the foregoing provisions of this Act it is desirable that steps should be taken by the council for the establishment of an approved society for the county under the council (in this section referred to as a county society), the council may, at any time before the expiration of one year from the commencement of this Act, submit to the Irish Insurance Commissioners a scheme for the establishment of a county society;

- (b) The scheme may provide for—

(i) the representation of the council on the committee of management of the society;

(ii) the appointment of officers subject to the approval of the council;

(iii) the delegation of powers to committees;

(iv) the giving of security by means of a charge upon the county fund or otherwise;

(v) the restriction of membership to insured persons resident in the county not being members of any other approved society;

(vi) the reduction of benefits below the minimum rates fixed by this Part of this Act; and

(vii) such other matters as may appear necessary, and in particular such further modifications of the provisions of this Part of this Act with respect to approved societies as may be required for the purpose of adapting those provisions to the case of a county society;

- (c) Where such a scheme has been approved by the Irish Insurance Commissioners, the provisions of the scheme shall have effect, notwithstanding anything to the contrary in this Part of this Act; and, subject to those provisions, the county society shall be an approved society for all the purposes of this Part of this Act;

- (d) A county council desirous of submitting a scheme under this section may, at any time after the passing of this Act, take such steps as appear necessary with a view to ascertaining what insured persons resident in the county are eligible and willing to become members of the proposed county society, and generally for the formation of the society:

- (8) The provisions with respect to the appointment of Insurance Committees shall have effect, subject to the following modifications, namely:—

The number of members of an Insurance Committee shall be twenty-four, and of that number—

(a) twelve shall be appointed in such manner as may be prescribed by regulations of the Irish Insurance Commissioners so as to secure representation of the insured persons resident in the county or county borough who are members of approved societies, and who are deposit contributors, in proportion, as nearly as may be, to their respective numbers, and the regulations so made shall provide for conferring on the approved societies which have members resident in the county or county borough the power of appointing representatives of such members, and, where an association of deposit contributors resident in the county or county borough has been formed under such regulations as aforesaid, for conferring on such association the power of appointing the representatives of the deposit contributors;

(b) eight (of whom at least one shall be a member of a local sanitary authority and at least two shall be women) shall be appointed by the council of the county or county borough; and

(c) four (of whom at least two shall be duly qualified medical practitioners) shall be appointed by the Irish Insurance Commissioners:

Provided that the Irish Insurance Commissioners may, where any part of the cost of sanatorium benefit is defrayed by the council of the county or county borough, increase the representation of the council and make a corresponding diminution in the representation of the insured persons:

- (9) An insured person in Ireland shall not be entitled to medical benefit under this Part of this Act, and the provisions with respect to medical benefit shall not apply:

Provided that medical benefit for an insured person being a member of an approved society shall be deemed to be

included amongst the additional benefits specified in Part II. of the Fourth Schedule to this Act, and that such medical benefit when provided shall be administered by the Insurance Committee in accordance with the provisions of this Part of this Act, unless the Irish Insurance Commissioners otherwise direct:

- (10) As respects employed contributors in Ireland, the employed rate shall be at the rate specified in Part II. of the Second Schedule of this Act, and the contributions by the contributors and contributions by the employers shall be at the rates specified in Part II. instead of the rates specified in Part I. of that schedule, and there shall be credited to the society of which any employed contributor in Ireland is a member or, if he is a deposit contributor, to his account in the Post Office fund, the difference between the amount of contributions actually paid by or in respect of him at the rate specified in Part II. of the amount which would have been paid if Second Schedule to this Act and the those contributions had been at the rate specified in Part I. of that schedule, and the amount of that difference shall be treated as having been expended on benefits and the proper proportion thereof shall accordingly be paid out of moneys provided by Parliament:
- (11) The foregoing provisions of this section as to the crediting of differences shall apply in the case of voluntary contributors resident in Ireland, with the modification that, where the voluntary rate is not the same as the employed rate, the difference to be credited shall be the difference between the amount of contributions actually paid at the voluntary rate and the amount which would have been paid if the contributor had been a voluntary contributor resident in Great Britain:
Provided that, in the case of a married woman resident in Ireland becoming a voluntary contributor at reduced rates of benefit under the special provisions with respect to married women, the rate of contributions payable by her shall be one penny halfpenny a week instead of three pence a week, and the difference to be credited shall be one penny halfpenny a week accordingly:
- (12) In ascertaining the voluntary rate applicable to voluntary contributors in Ireland in cases where that rate is not the same as the employed rate, regard shall be had both to the provisions of this section as to the crediting of differences and to the proportion of benefits to be paid out of the contributions payable by or in respect of such contributors:
- (13) Rules of an approved society or Insurance Committee under this Part of this Act may provide for the inspection of medical relief registers by officers of the society or Committee at all reasonable times, and for the furnishing to the society or Committee of such medical certificates as may be necessary for the purposes of the administration of the benefits administered by the society or Committee, and for the payment by the society or Committee to duly qualified medical practitioners of such remuneration in respect of the furnishing of those certificates as the Irish Insurance Commissioners may sanction, and all payments so made by the society or Committee shall be treated as expenses of administering the benefits aforesaid:
- (14) If a grant is made to a county council or county borough council out of any sum made available under any other Act of the present session for the purposes of the provision of or making grants in aid to sanatoria and other institutions for

the treatment of tuberculosis or such other diseases as the Local Government Board may, with the approval of the Treasury, appoint, the council may, subject to the sanction of the Local Government Board, exercise for all or any of those purposes the powers given to them by Part II. of the Tuberculosis Prevention (Ireland) Act, 1908 [8 Edw. 7. c. 56], in like manner as if those purposes were purposes authorised by that Part of that Act, and any expenses of the council so far as not defrayed out of the grant shall be defrayed in manner provided by that Part of that Act:

- (15) For the purposes of proceedings in Ireland under the provisions of this Part of this Act relative to disputes, regulations of the Irish Insurance Commissioners may apply all or any of the provisions of the Common Law Procedure (Ireland) Act, 1856 [19 & 20 Vict. c. 102], with respect to arbitration:
- (16) The special provisions with respect to the reduction of contributions in cases where the employer is liable to pay wages during sickness shall have effect, subject to the modification that, where the rate of contributions payable by the employed contributor is one halfpenny a week, the weekly contributions payable by the employer shall be reduced by one penny halfpenny (or, if the employed contributor is a woman, one penny), and the weekly contributions payable by the employed contributor shall be reduced by one halfpenny:
- (17) In the special provisions as to persons becoming certificated teachers, references to the Board of Education, to the Elementary School Teachers (Superannuation) Act, 1898, and to a public elementary school shall respectively be construed as references to the Superintendent of the Teachers' Pension Office, to the National School Teachers' (Ireland) Act, 1879 [42 & 43 Vict. c. 74], and to a national school, and any sums paid to the Superintendent of the Teachers' Pension Office in pursuance of those provisions shall be carried to the Pension Fund established under the last-mentioned Act and shall be dealt with in accordance with rules under that Act:
- (18) As respects insured persons in Ireland, "six-elevenths" shall be substituted for "four-sevenths" and (in the case of women) "four-ninths" shall be substituted for "one-half":
- (19) For the reference to the registrar of the county court, there shall be substituted a reference to a magistrate appointed under the Constabulary (Ireland) Act, 1836 [6 & 7 Will. 4. c. 13]:
- (20) For references to a duly certified midwife, there shall be substituted references to a midwife having such qualifications as may be prescribed.

82. Establishment of Commissioners for Wales.]—(1) For the purpose of carrying this Part of this Act into effect in Wales, there shall be constituted, as soon as may be after the passing of this Act, Commissioners for Wales (to be called the Welsh Insurance Commissioners) with a central office in such town in Wales as the Treasury may determine, and with such branch offices in Wales as the Treasury may think fit, and the Welsh Insurance Commissioners, of whom one at least shall be a duly qualified medical practitioner, shall be appointed by the Treasury, and may appoint such officers, inspectors, referees, and servants for the purposes aforesaid as the Welsh Insurance Commissioners, subject to the approval of the Treasury, may determine, and the provisions of this Part of this Act with respect to the payment of the salaries and remuneration of the Insurance Commissioners, and the officers, inspectors, referees, and servants appointed by them, and with respect to the payment of the expenses incurred by the Treasury or the Insurance Commissioners in carrying this Part of this Act into effect shall, with the necessary modifica-

tions, apply to the payment of the salaries and remuneration of the Welsh Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and to the payment of expenses incurred by the Treasury or the Welsh Insurance Commissioners in carrying this Part of this Act into effect in Wales, and for the purpose aforesaid the Welsh Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them shall respectively have all the like powers and duties as are by the provisions of this Act conferred and imposed on the Insurance Commissioners and the officers, inspectors, referees, and servants appointed by them, and references in those provisions to the Insurance Commissioners shall be construed as references to the Welsh Insurance Commissioners.

(2) All sums received from contributions under this Part of this Act in respect of insured persons resident in Wales, and all sums paid out of moneys provided by Parliament in respect of benefits under this Part of this Act to such persons, and the expenses of administration of such benefits shall be paid into a fund to be called the Welsh National Health Insurance Fund, under the control and management of the Welsh Insurance Commissioners, and the sums required to meet expenditure properly incurred by approved societies and Insurance Committees for the purposes of such benefits and the administration of such benefits shall be paid out of that fund, and the foregoing provisions of this Act, with respect to the National Health Insurance Fund, shall, with the necessary modifications, apply to the Welsh National Health Insurance Fund accordingly.

(3) The powers of the Local Government Board with respect to the distribution of any sum available for the purpose of the provision of or making grants in aid to sanatoria and other institutions shall, as respects the part thereof apportioned to Wales, be exercised by the Welsh Insurance Commissioners.

(4) If before or within twelve months after the commencement of this Act there is established for Wales by royal charter an association for the purpose of providing sanatoria and other institutions for the treatment and prevention of tuberculosis or such other diseases as the Local Government Board, with the approval of the Treasury, may appoint, the Welsh Insurance Commissioners in making and the Treasury in approving grants from any such sum as is in the last preceding subsection mentioned shall have regard to the provision of such institutions which may have been made, or may be proposed to be made, by the association.

83. Joint committee of Commissioners.]—(1) There shall be constituted as soon as may be after the passing of this Act, in accordance with regulations to be made by the Treasury, a joint committee of the several bodies of Commissioners appointed for the purposes of this Part of this Act, consisting of such members of each such body selected in such manner as may be provided by the regulations and of a chairman and other members (not exceeding two in number) to be appointed by the Treasury, and the chairman shall not by reason of his office be incapable of being elected to or voting in the Commons House of Parliament.

(2) The joint committee may make such financial adjustments as may be necessary between the several funds under the control and management of the several bodies of Commissioners, and shall exercise and perform such powers and duties of the several bodies of Commissioners under this Part of this Act, either alone or jointly with any of those bodies, as may be provided by such regulations.

(3) Amongst the powers so exercisable by the joint committee shall be included a power of making regulations as to the valuation of societies and branches which have amongst their members persons resident in England, Scotland, Ireland, and Wales, or any two or any three of such parts of the United Kingdom, and the regulations so made shall require that, for the purposes of the provisions of this Part of this Act relating to valuations, surpluses, deficiencies and transfers, the members resident

in each such part shall be treated as if they formed a separate society.

(4) Regulations made by the Treasury under this section shall be laid before Parliament as soon as may be after they are made, but, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, His Majesty in Council may annul the regulation and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

PART II.

UNEMPLOYMENT INSURANCE.

84. Right of workmen in insured trades to unemployment benefit.—Every workman who, having been employed in a trade mentioned in the Sixth Schedule to this Act (in this Act referred to as "an insured trade"), is unemployed, and in whose case the conditions laid down by this Part of this Act (in this Act referred to as "statutory conditions") are fulfilled, shall be entitled, subject to the provisions of this Part of this Act, to receive payments (in this Act referred to as "unemployment benefit") at weekly or other prescribed intervals at such rates and for such periods as are authorised by or under the Seventh Schedule to this Act, so long as those conditions continue to be fulfilled, and so long as he is not disqualified under this Act for the receipt of unemployment benefit:

Provided that unemployment benefit shall not be paid in respect of any period of unemployment which occurs during the six months following the commencement of this Act.

85. Contributions by workmen, employers, and the Treasury.—(1) The sums required for the payment of unemployment benefit under this Act shall be derived partly from contributions by workmen in the insured trades and partly from contributions by employers of such workmen and partly from moneys provided by Parliament.

(2) Subject to the provisions of this Part of this Act, every workman employed within the United Kingdom in an insured trade, and every employer of any such workman, shall be liable to pay contributions at the rates specified in the Eighth Schedule to this Act.

(3) Except where the regulations under this Part of this Act otherwise prescribe, the employer shall, in the first instance, be liable to pay both the contribution payable by himself, and also on behalf of and to the exclusion of the workman, the contribution payable by such workman, and subject to such regulations, shall be entitled, notwithstanding the provisions of any Act or any contract to the contrary, to recover from the workman by deductions from the workman's wages or from any other payment due from him to the workman the amount of the contributions so paid by him on behalf of the workman.

(4) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages of or other payment due to the workman, or otherwise recover from the workman by any legal process the contributions payable by the employer himself.

(5) Subject to the provisions of this Part of this Act, the Board of Trade may make regulations providing for any matters incidental to the payment and collection of contributions payable under this Part of this Act, and in particular for—

- (a) payment of contributions by means of adhesive or other stamps affixed to or impressed upon books or cards, or otherwise, and for regulating the manner, times and conditions in, at and under which such stamps are to be affixed and impressed or payments are otherwise to be made;
 - (b) the issue, sale, custody, production, and delivery up of books or cards and the replacement of books or cards which have been lost destroyed or defaced.
- (6) A contribution shall be made in each year out of moneys provided by Parliament equal to one-third of the total contributions received from

employers and workmen during that year, and the sums to be contributed in any year shall be paid in such manner and at such times as the Treasury may determine.

86. Statutory conditions for receipt of unemployment benefit.—The statutory conditions for the receipt of unemployment benefit by any workman are—

- (1) that he proves that he has been employed as a workman in an insured trade in each of not less than twenty-six separate calendar weeks in the preceding five years;
- (2) that he has made application for unemployment benefit in the prescribed manner, and proves that since the date of the application he has been continuously unemployed;
- (3) that he is capable of work but unable to obtain suitable employment;
- (4) that he has not exhausted his right to unemployment benefit under this Part of this Act:

Provided that a workman shall not be deemed to have failed to fulfil the statutory conditions by reason only that he has declined—

- (a) an offer of employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
- (b) an offer of employment in the district where he was last ordinarily employed at a rate of wage lower, or on conditions less favourable, than those which he habitually obtained in his usual employment in that district, or would have obtained had he continued to be so employed; or
- (c) an offer of employment in any other district at a rate of wage lower or on conditions less favourable than those generally observed in such district by agreement between associations of employers and of workmen, or, failing any such agreement, than those generally recognised in such district by good employers.

87. Disqualifications for unemployment benefit.—

(1) A workman who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, or other premises at which he was employed, shall be disqualified for receiving unemployment benefit so long as the stoppage of work continues, except in a case where he has, during the stoppage of work, become *bonâ fide* employed elsewhere in an insured trade.

Where separate branches of work which are commonly carried on as separate businesses in separate premises are in any case carried on in separate departments on the same premises, each of those departments shall, for the purposes of this provision, be deemed to be a separate factory or workshop or separate premises, as the case may be.

(2) A workman who loses employment through misconduct or who voluntarily leaves his employment without just cause shall be disqualified for receiving unemployment benefit for a period of six weeks from the date when he so lost employment.

(3) A workman shall be disqualified for receiving unemployment benefit whilst he is an inmate of any prison or any workhouse or other institution supported wholly or partly out of public funds, and whilst he is resident temporarily or permanently outside the United Kingdom.

(4) A workman shall be disqualified for receiving unemployment benefit while he is in receipt of any sickness or disablement benefit or disablement allowance under Part I. of this Act.

88. Determination of claims.—(1) All claims for unemployment benefit under this Part of this Act, and all questions whether the statutory conditions are fulfilled in the case of any workman claiming such benefit, or whether those conditions continue to be fulfilled in the case of a workman in receipt of such benefit, or whether a workman is disqualified for receiving or continuing to receive such benefit, or otherwise arising in connection with such claims, shall be determined by one of the officers appointed under this Part of this Act for determining such claims for benefit (in this Act referred to as "insurance officers"):

Provided that—

(a) in any case where unemployment benefit is refused or is stopped, or where the amount of the benefit allowed is not in accordance with the claim, the workman may require the insurance officer to report the matter to a court of referees constituted in accordance with this Part of this Act, and the court of referees after considering the circumstances may make to the insurance officer such recommendations on the case as they may think proper, and the insurance officer shall, unless he disagrees, give effect to those recommendations. If the insurance officer disagrees with any such recommendation, he shall, if so requested by the court of referees, refer the recommendation, with his reasons for disagreement, to the umpire appointed under this Part of this Act, whose decision shall be final and conclusive;

(b) the insurance officer in any case in which he considers it expedient to do so may, instead of himself determining the claim or question, refer it to a court of referees, who shall in such case determine the question, and the decision of the court of referees shall be final and conclusive.

(2) Nothing in this section shall be construed as preventing an insurance officer or umpire, or a court of referees, on new facts being brought to his or their knowledge, revising a decision or recommendation given in any particular case, but, where any such revision is made, the revised decision or recommendation shall have effect as if it had been an original decision or recommendation, and the foregoing provisions of this section shall apply accordingly, without prejudice to the retention of any benefit which may have been received under the decision or recommendation which has been revised.

(3) The Arbitration Act, 1889 [52 & 53 Vict. c. 49], shall not apply to proceedings under this section, except so far as it may be applied by regulations under this Part of this Act.

(4) For the purposes of proceedings under this section in Ireland, regulations may apply all or any of the provisions of the Common Law Procedure (Ireland) Act, 1856 [19 & 20 Vict. c. 102], with respect to arbitration.

89. Appointment of umpire, insurance officers, inspectors, &c.—(1) For the purposes of this Part of this Act, an umpire may be appointed by His Majesty, and insurance officers shall be appointed by the Board of Trade (subject to the consent of the Treasury as to number) and the insurance officers shall be appointed to act for such areas as the Board direct.

(2) The Board of Trade may appoint such other officers, inspectors, and servants for the purposes of this Part of this Act as the Board may, with the sanction of the Treasury, determine, and there shall be paid out of moneys provided by Parliament to the umpire and insurance officers and to such other officers, inspectors, and servants, such salaries or remuneration as the Treasury may determine; and any expenses incurred by the Board of Trade in carrying this Part of this Act into effect to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament:

Provided that such sum as the Treasury may direct, not exceeding one-tenth of the receipts, other than advances by the Treasury, paid into the unemployment fund on income account shall, in accordance with regulations made by the Treasury, be applied as an appropriation in aid of money provided by Parliament for the purpose of such salaries, remuneration, and expenses.

90. Courts of referees.—(1) A court of referees for the purposes of this Part of this Act shall consist of one or more members chosen to represent employers, with an equal number of members chosen to represent workmen, and a chairman appointed by the Board of Trade.

(2) Panels of persons chosen to represent employers and workmen respectively shall be constituted by the Board of Trade for such districts and such trades or groups of trades as the Board may think fit, and the members of a court of

referees to be chosen to represent employers and workmen shall be selected from those panels in the prescribed manner.

(3) Subject as aforesaid, the constitution of courts of referees shall be determined by regulations made by the Board of Trade.

(4) The regulations of the Board of Trade may further provide for the reference to referees chosen from the panels constituted under this section, for consideration and advice, of questions bearing upon the administration of this Part of this Act, and for the holding of meetings of referees for the purpose.

(5) The Board of Trade may pay such remuneration to the chairman and other members of a court of referees and such travelling and other allowances (including compensation for loss of time) to persons required to attend before any such court, and such other expenses in connection with any referees, as the Board, with the sanction of the Treasury determine, and any such payments shall be treated as expenses incurred by the Board of Trade in carrying this Part of this Act into effect.

91. Regulations.—(1) The Board of Trade may make regulations for any of the purposes for which regulations may be made under this Part of this Act and the Schedules therein referred to, and for prescribing anything which under this Part of this Act or any such Schedules is to be prescribed, and—

- (a) for permitting workmen who are employed under the same employer partly in an insured trade and partly not in an insured trade to be treated with the consent of the employer as if they were wholly employed in an insured trade; and
- (b) for giving employers, and workmen, and the Board of Trade an opportunity of obtaining a decision by the umpire appointed under this Part of this Act on any question whether contributions under this Part of this Act are payable in respect of any workman or class of workmen, and for securing that a workman in whose case contributions have been paid in accordance with any such decision, shall, as respects any unemployment benefit payable in respect of those contributions, be treated as a workman employed in an insured trade, and for securing that employers and workmen shall be protected from proceedings and penalties in cases where, in accordance with any such decision, they have paid or refrained from paying contributions; and
- (c) for prescribing the evidence to be required as to the fulfilment of the conditions and qualifications for receiving or continuing to receive unemployment benefit, and for that purpose requiring the attendance of workmen at such offices or places and at such times as may be required; and
- (d) for prescribing the manner in which claims for unemployment benefit may be made and the procedure to be followed on the consideration and examination of claims and questions to be considered and determined by the insurance officers, courts of referees, and umpire, and the mode in which any question may be raised as to the continuance, in the case of a workman in receipt of unemployment benefit, of such benefit, and for making provision with respect to the appointment of a deputy umpire in the case of the unavoidable absence or incapacity of the umpire; and
- (e) with respect to the payment of contributions and benefits during any period intervening between any application for the decision of any question or any claim for benefit, and the final determination of the question or claim; and
- (f) for providing that, where any workmen are employed in or for the purposes of the business of any person, but are not actually employed by that person, that

person may be treated for the purposes of this Part of this Act as their employer instead of their actual employer, and for allowing that person to deduct from any payments made by him to the actual employer any sums paid by him as contributions on behalf of the workmen, and for allowing the actual employer to recover the like sums from the workmen; and

generally for carrying this Part of this Act into effect, and any regulations so made shall have effect as if enacted in this Act.

Any regulations made under this section for giving an opportunity of obtaining a decision of the umpire may be brought into operation as soon as may be after the passing of this Act.

(2) The regulations may, with the concurrence of the Postmaster-General, provide for enabling claimants of unemployment benefit to make their claims for unemployment benefit under this Act through the Post Office, and for the payment of unemployment benefit through the Post Office.

(3) All regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat next after any such regulation is laid before it, praying that the regulation may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new regulation.

92. Unemployment fund.—(1) For the purposes of this Part of this Act there shall be established under the control and management of the Board of Trade a fund called the unemployment fund, into which shall be paid all contributions payable under this Part of this Act by employers and workmen and out of moneys provided by Parliament, and out of which shall be paid all claims for unemployment benefit and any other payments which under this Part of this Act are payable out of the fund.

(2) The accounts of the unemployment fund shall be audited by the Comptroller and Auditor General in such manner as the Treasury may direct.

(3) Any moneys forming part of the unemployment fund may from time to time be paid over to the National Debt Commissioners and by them invested in accordance with regulations made by the Treasury in any securities which are for the time being authorised by Parliament as investments for savings banks moneys.

(4) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of the said fund are for the time being invested.

93. Treasury advances.—(1) The Treasury may out of the Consolidated Fund or the growing produce thereof advance on the security of the unemployment fund any sums required for the purpose of discharging the liabilities of that fund under this Part of this Act: Provided that the total amount of advances outstanding at any time shall not exceed three million pounds.

(2) If, whilst any part of any such advance is outstanding, it appears to the Treasury that the unemployment fund is insolvent, the Board of Trade shall, if the Treasury so direct, by order, make such temporary modifications in any of the rates of contribution, or the rates or periods of unemployment benefit, and during such period, as the Board of Trade think fit, and as will on the whole, in the opinion of the Treasury, be sufficient to secure the solvency of the unemployment fund:

Provided that no order made under this subsection shall reduce the weekly rate of unemployment benefit below the sum of five shillings, or shall increase the rates of contribution from employers or workmen by more than one penny per workman per week, or increase those rates unequally as between employers and workmen, and no such order shall remain in force more than three months after all the advances and interest thereon have been repaid, or come into force until one month after it is made.

(3) An order under this section shall not be made so as to be in force at any time while any previous order made under this section is in force.

(4) On any such order being made, the Board of Trade shall cause the order, together with a special report as to the reasons for making the order, to be laid before Parliament.

(5) The Treasury may, for the purpose of providing for the issue of sums out of the Consolidated Fund under this section, or for the repayment to that fund of all or any part of the sums so issued, or for paying off any security issued under this section, so far as that payment is not otherwise provided for, borrow money by means of the issue of Exchequer bonds or Treasury bills, and all sums so borrowed shall be paid into the Exchequer.

(6) The principal of and interest on any Exchequer bonds issued under this section shall be charged on and payable out of the Consolidated Fund of the United Kingdom, or the growing produce thereof.

(7) Notwithstanding anything in any other Act, money in the hands of the National Debt Commissioners for the reduction of the National Debt shall not be applied to purchasing, reducing, or paying off any Exchequer bonds or Treasury bills issued under this section.

94. Refund of part of contributions paid by employer in the case of workmen continuously employed.—(1) The Board of Trade shall, on the application of any employer made within one month after the termination of any calendar year, or other prescribed period of twelve months, refund to such employer out of the unemployment fund a sum equal to one-third of the contributions (exclusive of any contributions refunded to him under any other provisions of this Part of this Act) paid by him on his own behalf during that period in respect of any workman who has been continuously in his service through the period, and in respect of whom not less than forty-five contributions have been paid during the period.

(2) For the purpose of meeting any change in the period for which any refund of contributions is to be made under the foregoing provisions of this section, or for the purpose of making provision for any period which may elapse between the date on which contributions commence to be payable under this Part of this Act and the date on which the first period for the refund of contributions under the foregoing provisions of this section commences, the Board of Trade may, so far as necessary for the purpose, apply the provisions of this section to any period less than twelve months, subject to such proportionate reduction of the number of contributions required as they direct, and this section shall take effect as regards any such period of less than twelve months as so applied.

95. Repayment of part of contributions by workmen in certain cases.—(1) If it is shown to the satisfaction of the Board of Trade by any workman or his personal representatives that the workman has paid contributions in accordance with the provisions of this Part of this Act in respect of five hundred weeks or upwards, and that the workman has reached the age of sixty, or before his death had reached the age of sixty, the workman or his representatives shall be entitled to be repaid the amount, if any, by which the total amount of such contributions have exceeded the total amount received by him out of the unemployment fund under this Act, together with compound interest at the rate of two and a half per cent. per annum calculated in the prescribed manner.

(2) A repayment to a workman under this section shall not affect his liability to pay contributions under this Part of this Act, and, if after any such repayment he becomes entitled to unemployment benefit, he shall be treated as having paid in respect of the period for which the repayment has been made the full number of contributions which is most nearly equal to five-eighths of the number of contributions actually paid during that period.

96. Refund of contributions paid in respect of workmen working short time.—(1) If any employer satisfies the Board of Trade that during

any period of depression in his business workmen employed by him have been systematically working short time, and that during such period he has paid contributions under this Part of this Act on behalf of such workmen, as well as on his own behalf, without recovering such contributions from such workmen either by way of deductions from wages or otherwise, there shall be refunded to him out of the unemployment fund, in accordance with regulations made by the Board of Trade, the contributions so paid by him in respect of those workmen (including those paid on behalf of the workmen as well as those paid on his own behalf), for the period or such part thereof as in the circumstances may seem just:

Provided that, except in a case where the working of short time has been effected by stopping the work for some day in the week which has been usually recognised as a working day of at least four hours in the trade and district, no such refund shall be made in respect of any workmen for any week in which the hours of work have exceeded five-sixths of the number usually recognised as constituting a full week's work at that time in the trade and district.

(2) Any employer who desires to take advantage of this section may make an application to the Board of Trade with a view to obtaining their ruling as to the circumstances under which, and the means by which, he proposes to effect a reduction of working hours, and the Board of Trade may, if they think fit, on the necessary information being supplied, give their ruling as to whether the circumstances are such, and the proposed means of reducing working hours are such, as to satisfy the requirements of this section.

97. Saving for occasional employment in rural neighbourhoods.—Where a workman is employed in a district which is rural in its character, and the workman usually follows in that district some occupation other than an insured trade, and is employed in an insured trade occasionally only, contributions under this Part of this Act shall not be payable in respect of the workman, except in cases where the employer and the workman agree that contributions shall be payable notwithstanding this provision.

98. Payment of contributions in case of Reservists or Territorials during training.—Where a man of the Naval Reserve, the Army Reserve, or the Territorial Force, is being trained and is in receipt of pay out of the moneys provided by Parliament for Navy or Army services, and immediately before the training was employed in an insured trade, he shall, for the purposes of this Part of this Act, be deemed, whilst so training, to be in the employment of the Crown in an insured trade.

99. Provisions with respect to workmen engaged through labour exchanges.—(1) The Board of Trade may, in such cases and on such conditions as the Board may prescribe, make an arrangement with any employer liable to pay contributions under any part of this Act, whereby, in respect of workmen engaged by him through a labour exchange, or in his employ at the date of such arrangement, the performance of all or any of the duties required under any part of this Act to be performed by the employer in respect of those workmen, whether on his own behalf or on behalf of the workmen, shall be undertaken on behalf of the employer by the labour exchange, and whereby in respect of such workmen different periods of employment, whether of the same workmen or different workmen, may, for the purposes of the employer's contributions under this Part of this Act, but not for the purposes of a refund of any part of the employer's contributions, be treated as a continuous employment of a single workman.

(2) Where any such arrangement has been made, all the periods of employment during which a workman engaged through a labour exchange is employed by one or more employers with whom such an arrangement has been made, may, subject to regulations made by the Board of Trade, on the application of the workman, be treated for the purposes of his contributions under this Part of this Act as a continuous period of employment under one employer, and those regulations may

provide for the refund of part of his contributions under this Part of this Act accordingly.

100. Subsidiary provisions.—(1) If the repeated failure of any insured workman to obtain or retain employment appears to the insurance officer to be wholly or partly due to defects in skill or knowledge, the insurance officer may, if he thinks fit, for the purpose of testing the skill or knowledge of the workman, offer to arrange for the attendance of the workman at a suitable place for the purpose, and may, out of the unemployment fund, pay all or any of the expenses incidental to such attendance.

If the workman fails or refuses either to avail himself of the offer, or to produce satisfactory evidence of his competence, or if as a result of the test the insurance officer considers that the skill or knowledge of the workman is defective, and that there is no reasonable prospect of such defects being remedied, such facts shall be taken into consideration in determining what is suitable employment for the workman.

If in any case as a result of the test the insurance officer considers that the skill or knowledge of the workman is defective, but that there is a reasonable prospect of the defects being remedied by technical instruction, the insurance officer may, subject to any directions given by the Board of Trade, pay out of the unemployment fund all or any of the expenses incidental to the provision of the instruction, if he is of opinion that the charge on the unemployment fund in respect of the workman is likely to be decreased by the provision of the instruction.

(2) The regulations of the Board of Trade made under this Part of this Act shall provide for the return to a workman who is not a workman in an insured trade and to his employer of any contributions paid by them respectively under the belief that the workman was a workman in an insured trade, subject, in the case of the workman's contributions, to the deduction of any amount received by him in respect of unemployment benefit under a similar belief.

(3) Where under regulations made by the Board of Trade any sum has been paid out of the unemployment fund by way of reward for the return of a book or card which has been lost, the person responsible for the custody of the book or card at the time of its loss shall be liable to repay the sum so paid, not exceeding one shilling in respect of any one occasion.

101. Offences and proceedings for recovery of contributions, &c.—(1) If for the purpose of obtaining any benefit or payment under this Part of this Act, either for himself or for any other person, or for the purpose of avoiding any payment to be made by himself under this Part of this Act, or enabling any other person to avoid any such payment, any person knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding three months, with or without hard labour.

(2) If any employer or workman has failed to pay any contributions which he is liable under this Part of this Act to pay, or if any employer or workman or any other person refuses or neglects to comply with any of the requirements of this Part of this Act, or the regulations made thereunder, he shall, for each offence, be liable on summary conviction to a fine not exceeding ten pounds, and also, where the offence is failure or neglect to make any contribution under this Part of this Act, to pay to the unemployment fund a sum equal to three times the amount which he has refused or neglected to pay (not exceeding five pounds), which sum, when paid, shall be treated as a payment in satisfaction of the contributions which he has so refused or neglected to pay.

(3) Proceedings under the foregoing provisions of this section shall not be instituted except by, or with the consent of, the Board of Trade, and may be commenced at any time within three months of the date at which the offence comes to the knowledge of the Board of Trade.

(4) Nothing in this section shall be construed as preventing the Board of Trade from recovering any sums due to the unemployment fund by means of civil proceedings, and all such sums shall be

recoverable in such proceedings as debts due to the Crown.

(5) If it is found at any time that a person has been in receipt of unemployment benefit under this Part of this Act whilst the statutory conditions were not fulfilled in his case, or whilst he was disqualified for receiving unemployment benefit, he shall be liable to repay to the unemployment fund any sums paid to him in respect of unemployment benefit whilst the statutory conditions were not fulfilled, or whilst he was disqualified for receiving the benefit, and the amount of such sums may be recovered as a debt due to the Crown.

(6) In any proceedings under this section, or in any proceedings involving any question as to the payment of contributions under this Part of this Act, or for the recovery of any sums due to the unemployment fund, the decision of the umpire appointed under this Part of this Act on any question arising, whether the trade in which the workman is or has been employed is an insured trade or not shall be conclusive for the purpose of those proceedings, and, if no such decision has been obtained and the decision of the question is necessary for the determination of the proceedings, the question shall be referred, in accordance with the regulations made under this Part of this Act, to the umpire for the purpose of obtaining such a decision.

102. Periodical revision of rates of contribution.—If at any time after the expiration of seven years from the commencement of this Act it appears to the Board of Trade that the unemployment fund is insufficient or more than sufficient to discharge the liabilities imposed upon the fund under this Part of this Act, or that the rates of contribution are excessive or deficient as respects any particular insured trade, or any particular branch of any such trade, the Board may, with the sanction of the Treasury, by special order made in manner herein-after provided revise the rates of contribution of employers and workmen under this Part of this Act, and any such order may, if the Board think fit, prescribe different rates of contribution for different insured trades or branches thereof, and, where any such order is made, the rates prescribed by the order shall, as from such date as may be specified in the order, be substituted as respects trades or branches thereof to which it relates for the rates prescribed by this Act:

Provided that, where such a revision has been made, no further revision under this section shall be made before the expiration of seven years from the last revision, and that no order under this section shall increase the rates of contribution from employers or workmen by more than one penny per workman per week above the rates specified in the Eighth Schedule to this Act, or shall vary such rates unequally as between employers and workmen.

103. Power to extend to other trades.—If it appears to the Board that it is desirable to extend the provisions of this Part of this Act to workmen in any trade other than an insured trade, or to vary the definition of "workman" with respect to the age of the persons included therein, either generally or for any particular insured trade, or any particular branch of any such trade, the Board may, with the consent of the Treasury, make, in manner herein-after provided, a special order extending this Part of this Act to such workmen or so varying the definition of "workman," as the case may be, either without modification or subject to such modifications of rates of contribution or rates or periods of benefit as may be contained in the order, and, on any such order being made, this Part of this Act shall, subject to the modifications (if any) contained in the order, apply as if the trade mentioned in the order were an insured trade, or as if the definition of "workman" were varied in accordance with the order, as the case may be, and as if the rates of contribution and the rates and periods of benefit mentioned in the order were the rates of contribution and the rates and periods of benefit provided by this Part of this Act in respect of such trade:

Provided that no such order shall be made if the person holding the inquiry in relation to the

order reports that the order should not be made, or if the order would, in the opinion of the Treasury, increase the contribution to the unemployment fund out of moneys provided by Parliament to a sum exceeding one million pounds a year before the expiration of three years from the making of the order, and that the rates of contribution mentioned in the order shall not exceed the rates specified in the Eighth Schedule to this Act, and shall be imposed equally as between employers and workmen.

104. Exclusion of subsidiary occupations.]—The Board of Trade may, if in any case they consider that it is desirable, by special order exclude from the occupations which are to be deemed employment in an insured trade for the purpose of this Part of the Act—

- (a) Any occupation which appears to them to be common to insured and uninsured trades alike, and ancillary only to the purposes of an insured trade; and
- (b) Any occupation which appears to them to be an occupation in a business which, though concerned with the making of parts or the preparation of materials for use in connection with an insured trade, is mainly carried on as a separate business or in connection with trades other than insured trades;

and, on any such order being made, the occupation to which the order relates shall not be treated as employment in an insured trade for the purposes of this Part of this Act.

Any special order made under this section may be made so as to cover one or more occupations. The provisions of this Part of this Act as to the laying of regulations before Parliament and the presentation of an Address thereon shall apply to special orders made under this section.

105. Arrangements with associations of workmen in insured trade who make payments to members whilst unemployed.]—(1) The Board of Trade may, on the application of any association of workmen the rules of which provide for payments to its members, being workmen in an insured trade, or any class thereof, whilst unemployed, make an arrangement with such association that, in lieu of paying unemployment benefit under this Part of this Act to workmen who prove that they are members of the association, there shall be repaid periodically to the association out of the unemployment fund such sum as appears to be, as nearly as may be, equivalent to the aggregate amount which such workmen would have received during that period by way of unemployment benefit under this Part of this Act if no such arrangement had been made, but in no case exceeding three-fourths of the amount of the payments made during that period by the association to such workmen as aforesaid whilst unemployed.

(2) The council or other governing body of any association of workmen which has made such an arrangement as aforesaid shall be entitled to treat the contributions due from any of its members to the unemployment fund under this Part of this Act, or any part thereof, as if such contributions formed part of the subscriptions payable by those members to the association, and, notwithstanding anything in the rules of the association to the contrary, may reduce the rates of subscription of those members accordingly.

(3) For the purpose of determining whether a workman has exhausted his right to unemployment benefit under this Part of this Act, the amount of any sum which, but for this section, would have been paid to him by way of unemployment benefit shall be deemed to have been so paid.

(4) The Board of Trade may make regulations for giving effect to this section, and for referring to the umpire appointed under this Part of this Act any question which may arise under this section.

(5) The fact that persons other than workmen can be members of an association shall not prevent the association being treated as an association of workmen for the purposes of this section, if the association is substantially an association of workmen.

106. Repayments to associations who make payments to persons whether workmen in insured trade or not, whilst unemployed.]—(1) The Board of Trade may, with the consent of the Treasury, and on such conditions and either annually or at such other intervals as the Board may prescribe, repay out of moneys provided by Parliament to any association of persons not trading for profit the rules of which provide for payments to persons whilst unemployed, whether workmen in an insured trade or not, such part (in no case exceeding one-sixth) as they think fit, of the aggregate amount which the association has expended on such payments during the preceding year or other prescribed period, exclusive of the sum (if any) repaid to the association in respect of such period in pursuance of an arrangement under the last foregoing section, and exclusive, in the case of payments which exceed twelve shillings a week, of so much of those payments as exceeds that sum.

(2) No repayment shall be made under this section in respect of any period before the expiration of six months from the commencement of this Act.

(3) The Board of Trade may make regulations for giving effect to this section, and for determining the mode in which questions arising under this section shall be settled.

107. Interpretation and application.]—(1) For the purposes of this Part of this Act—

The expression "workman" means any person of the age of sixteen or upwards employed wholly or mainly by way of manual labour, who has entered into or works under a contract of service with an employer, whether the contract is expressed or implied, is oral or in writing, and in relation to a person whilst unemployed means a person who, when employed, fulfilled the conditions aforesaid, but does not include an indentured apprentice;

Contributions made by an employer on behalf of a workman shall be deemed to be contributions by the workman;

Two periods of unemployment of not less than two days each, separated by a period of not more than two days, during which the workman has not been employed for more than twenty-four hours or two periods of unemployment of not less than one week each, separated by an interval of not more than six weeks, shall be treated as a continuous period of unemployment, and the expression "continuously unemployed" shall have a corresponding meaning;

Temporary work provided by a central body or distress committee under the Unemployed Workmen Act, 1906 [5 Edw. 7, c. 18], or towards the provision of which any such central body or distress committee has contributed under that Act, shall not be deemed to be employment in an insured trade;

A workman shall not be deemed to be unemployed whilst he is following any remunerative occupation in an insured trade, or whilst he is following any other occupation from which he derives any remuneration or profit greater than that which he would derive from the receipt of unemployment benefit under this Part of this Act.

A workman shall not, for the purposes of contributions, be deemed to be employed in any period in respect of which he receives no remuneration from his employer, notwithstanding that he continues during such period in his employment.

The expression "trade dispute" means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any persons, whether workmen in the employment of the employer with whom the dispute arises or not.

(2) In determining any question as to whether any trade in which a workman is or has been employed is an insured trade or not, regard shall be had to the nature of the work in which the workman is engaged rather than to the business of the employer by whom he is employed.

(3) This Part of this Act shall apply to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person, except to such of those workmen as are serving in an established capacity in the permanent service of the Crown, subject, however, to such modifications as may be made therein by Order in Council for the purpose of adapting the provisions of this Part of this Act to the case of such workmen.

(4) If the Board of Trade are satisfied that any class of workmen are, having regard to their claim to pension or to the other terms of their service, in as permanent a position as that of persons serving in an established capacity in the permanent service of the Crown, the Board of Trade may exempt that class of persons from the provisions of this Part of this Act, and any persons so exempt shall not be deemed to be workmen.

PART III. GENERAL.

108. Provisions as to stamps.]—Stamps required for the purposes of this Act shall be prepared and issued in such manner as the Commissioners of Inland Revenue, with the consent of the Treasury, may direct, and the said Commissioners may, by regulations in accordance with the provisions of Part I. of this Act relating to regulations by the Insurance Commissioners, provide for applying, with the necessary adaptations, as respects such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Management Act, 1891 [54 & 55 Vict. c. 38], as amended by any subsequent Act, and section sixty-five of the Post Office Act, 1908 [8 Edw. 7, c. 48], and may with the consent of the Postmaster-General provide for the sale of such stamps through the Post Office.

109. Outdoor relief.]—In granting outdoor relief to a person in receipt of or entitled to receive any benefit under this Act, a board of guardians shall not take into consideration any such benefit, except so far as such benefit exceeds five shillings a week.

110. Priority of claims for contributions due by bankrupt employers.]—(1) There shall be included among the debts which, under section one of the Preferential Payments in Bankruptcy Act, 1883 [51 & 52 Vict. c. 62], and section two hundred and nine of the Companies (Consolidation) Act, 1908 [8 Edw. 7, c. 69], are, in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all contributions payable under this Act by the bankrupt or the company in respect of employed contributors or workmen in an insured trade during the four months before the date of the receiving order, or, as the case may be, the commencement of the winding up or the winding-up order, and those Acts shall have effect accordingly, and formal proof of the debts to which priority is given under this section shall not be required except in cases where it may otherwise be provided by rules made under the Bankruptcy Act, 1883 [46 & 47 Vict. c. 52], or the Companies (Consolidation) Act, 1908.

(2) In the case of the winding-up of a company within the meaning of the Stannaries Act, 1887 [50 & 51 Vict. c. 43], such contributions as aforesaid shall, if payable in respect of a miner, have the like priority as is conferred on wages of miners by section nine of that Act, and that section shall have effect accordingly.

(3) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

(4) In the application of this section to Scotland, a reference to section three of the Bankruptcy (Scotland) Act, 1875 [38 & 39 Vict. c. 26], and the respective dates therein mentioned shall be substituted for the reference to section

one of the Preferential Payments in Bankruptcy Act, 1888, and the date of the receiving order; and an Act of Sederunt under the Bankruptcy Amendment (Scotland) Act, 1856 [19 & 20 Vict. c. 79], shall be substituted for rules under the Bankruptcy Act, 1883.

(5) In the application of this section to Ireland a reference to section four of the Preferential Payments in Bankruptcy (Ireland) Act, 1889 [52 & 53 Vict. c. 60], shall be substituted for the reference to section one of the Preferential Payments in Bankruptcy Act, 1888; and a reference to general orders made under the first-mentioned Act shall be substituted for the reference to rules made under the Bankruptcy Act, 1883; and any reference to a bankrupt shall include a reference to an arranging debtor; and the reference to the receiving order shall be construed as a reference to the order of adjudication in the case of a bankrupt, or to the filing of the petition for arrangement in the case of an arranging debtor.

111. Benefits to be inalienable.—Every assignment of, or charge on, and every agreement to assign or charge, any of the benefits conferred by this Act shall be void, and, on the bankruptcy of any person entitled to any such benefit, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

112. Powers of inspectors.—(1) An inspector appointed under this Act shall, for the purposes of the execution of this Act, have power to do all or any of the following things, namely—

(a) to enter at all reasonable times any premises or place, other than a private dwelling-house not being a workshop, where he has reasonable grounds for supposing that any employed contributors or workmen in an insured trade are employed;

(b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act are complied with in any such premises or place;

(c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an employed contributor or workman in an insured trade, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined;

(d) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) The occupier of any such premises or place and any other person employing any employed contributor or workman in an insured trade, and the servants and agents of any such occupier or other person, and any employed contributor or workman in an insured trade shall furnish to any inspector all such information and shall produce for inspection all such registers, books, cards, and other documents as the inspector may reasonably require.

(3) If any person wilfully delays or obstructs an inspector in the exercise of any power under this section or fails to give such information or to produce such documents as aforesaid, or conceals or prevents or attempts to conceal or prevent any person from appearing before or being examined by an inspector, he shall be liable on summary conviction to a fine not exceeding five pounds:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(4) Where any such premises or place are liable to be inspected by inspectors or other officers, or are under the control, of some other Government department, the Insurance Commissioners or Board of Trade may make arrangements with that other Government department for any of the powers and duties of inspectors under this section being carried out by inspectors or other officers of such other Government department, and, where such an arrangement is made,

such inspectors and officers shall have all the powers of an inspector under this section.

(5) Every inspector shall be furnished with the prescribed certificate of his appointment, and on applying for admission to any premises for the purposes of this Act shall, if so required, produce the said certificate to the occupier.

113. Procedure for making special orders.—

(1) Sections eighty and eighty-one of the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22], relating to the making of regulations under that Act, as set out and adapted in the Ninth Schedule to this Act, shall apply to special orders made under this Act.

(2) Before a special order (other than a special order excluding any occupation from the occupations which are to be deemed employment in an insured trade) comes into force, it shall be laid before each House of Parliament for a period of not less than thirty days during which the House is sitting, and, if either of those Houses before the expiration of those thirty days presents an Address to His Majesty against the order or any part thereof, no further proceedings shall be taken thereon without prejudice to the making of any new order.

114. Provisions as to birth certificates.—

Where, for the purposes of this Act, the age of any person is required to be proved by the production of a certificate of birth, any person shall, on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board for England, Scotland, or Ireland, as the case may be, and, on payment of a fee of sixpence, be entitled to obtain a certified copy of the entry of the birth of that person in the birth register, under the hand of the registrar or superintendent registrar having the custody thereof, and forms for such requisition shall on request be supplied without any charge by every registrar of births and deaths and by every superintendent registrar.

115. Short title and commencement.—This Act may be cited as the National Insurance Act, 1911, and shall, save as otherwise expressly provided by this Act, come into operation on the fifteenth day of July nineteen hundred and twelve:

Provided that His Majesty in Council may, should necessity arise, substitute some subsequent date or dates not being later than the first day of January nineteen hundred and thirteen as respects the provisions of this Act relating to health insurance, and not being later than the first day of October nineteen hundred and twelve as respects the provisions of this Act relating to unemployment insurance.

SCHEDULES.

FIRST SCHEDULE.

PART I.

[Sections 1 and 81.]

EMPLOYMENTS WITHIN THE MEANING OF PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

(a) Employment in the United Kingdom under any contract of service or apprenticeship, written or oral, whether expressed or implied, and whether the employed person is paid by the employer or some other person, and whether under one or more employers, and whether paid by time or by the piece or partly by time and partly by the piece, or otherwise, or except in the case of a contract of apprenticeship, without any money payment.

(b) Employment under such a contract as aforesaid as master or a member of the crew of any ship registered in the United Kingdom or of any other British ship or vessel of which the owner, or, if there is more than one owner, the managing owner or manager, resides or has his principal place of business in the United Kingdom.

(c) Employment as an outworker (that is to say, a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials for the purposes of the trade or business of the last-mentioned

person), unless excluded by a special order made by the Insurance Commissioners, and any such order may exclude outworkers engaged in work of any class, or outworkers of any class or description specified in the order, or may defer the commencement of this Act as respects all outworkers, and the person who gave out the articles or materials shall, in relation to the person to whom he gave them out, be deemed to be the employer.

(d) Employment in the United Kingdom in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under any contract of bailment (or in Scotland any contract of letting to hire) in consideration of the payment of a fixed sum or a share in the earnings or otherwise, in which case the owner shall, for the purposes of Part I. of this Act, be deemed to be the employer.

PART II.

EXCEPTIONS.

(a) Employment in the naval or military service of the Crown, including service in Officers' Training Corps, except as otherwise provided in Part I. of this Act.

(b) Employment under the Crown or any local or other public authority where the Insurance Commissioners certify that the terms of the employment are such as to secure provision in respect of sickness and disablement on the whole not less favourable than the corresponding benefits conferred by Part I. of this Act.

(c) Employment as a clerk or other salaried official in the service of a railway or other statutory company, or of a joint committee of two or more such companies, where the Insurance Commissioners certify that the terms of employment, including his rights in such superannuation fund as is hereinafter mentioned, are such as to secure provision in respect of sickness and disablement, on the whole, not less favourable than the corresponding benefits conferred by Part I. of this Act, and the person so employed is entitled to rights in a superannuation fund established by Act of Parliament for the benefit of persons in such employment, or in Ireland is entitled to rights in any such superannuation fund or in any railway superannuation fund which may be approved by the Insurance Commissioners.

(d) Employment as a teacher to whom the Elementary School Teachers Superannuation Act, 1898, or a scheme under section fourteen of the Education (Scotland) Act, 1908, or the National School Teachers (Ireland) Act, 1879, applies, or, in the event of any similar enactment being hereafter passed as respects teachers or any class of teachers (other than teachers in public elementary schools), as a teacher to whom such enactment applies.

(e) Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some other occupation, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.

(f) Employment in respect of which no wages or other money payment is made where the employer is the occupier of an agricultural holding and the employed person is employed thereon, or where the person employed is the child of, or is maintained by, the employer.

(g) Employment otherwise than by way of manual labour and at a rate of remuneration exceeding in value one hundred and sixty pounds a year, or in cases where such employment involves part-time service only, at a rate of remuneration which, in the opinion of the Insurance Commissioners, is equivalent to a rate of remuneration exceeding one hundred and sixty pounds a year for whole-time service.

(h) Employment of a casual nature otherwise than for the purposes of the employer's trade or business, and otherwise than for the purposes of any game or recreation where the persons employed are engaged or paid through a club, and in such case the club shall be deemed to be the employer.

(i) Employment of any class which may be

specified in a special order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.

(j) Employment as an outworker where the person so employed is the wife of an insured person and is not wholly or mainly dependent for her livelihood on her earnings in such employment.

(k) Employment as a member of the crew of a fishing vessel where the members of such crew are remunerated by shares in the profits or the gross earnings of the working of such vessel in accordance with any custom or practice prevailing at any port if a special order is made for the purpose by the Insurance Commissioners, and the particular custom or practice prevailing at the port is one to which the order applies.

(l) Employment in the service of the husband or wife of the employed person.

SECOND SCHEDULE.

[Sections 4 and 81.]

RATES OF CONTRIBUTION UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

PART I.

Employed Rate.

In the case of men . . . 7d. a week.
" " women . . . 6d. "

Contributions by Employers and Employed Contributors.

To be paid by the employer . . . 3d. a week
" " contributor { Men, 4d. "
" " " Women, 3d. "

In the case of employed contributors of either sex of the age of 21 or upwards whose remuneration does not include the provision of board and lodging by their employer, and the rate of whose remuneration does not exceed 2s. 6d. a working day, the following shall be the rates of contribution:—

Where the rate of remuneration does not exceed 1s. 6d. a working day—

To be paid by the employer . . . A week.
" " out of moneys provided by Parliament { For men, 6d. "
" " " " women, 5d. "
" " " " " 1d.

Where the rate of remuneration exceeds 1s. 6d. but does not exceed 2s. a working day—

To be paid by the employer . . . A week.
" " contributor { For men, 5d. "
" " " " women, 4d. "
" " out of moneys provided by Parliament { " 1d. "
" " " " " 1d.

Where the rate of remuneration exceeds 2s. but does not exceed 2s. 6d. a working day—

To be paid by the employer . . . { For men, 4d. "
" " contributor " " women, 3d. "

PART II.

Employed Rate in Ireland.

In the case of men . . . 5½d. a week.
" " women . . . 4½d. "

Contributions by Employers and Employed Contributors.

To be paid by the employer . . . 2½d. a week.
" " contributor { Men, 3d. "
" " " " Women, 2d. "

In the case of employed contributors of either sex of the age of 21 or upwards whose remuneration does not include the provision of board and lodging by their employer, and the rate of whose remuneration does not exceed 2s. 6d. a working day, the following shall be the rates of contribution:—

Where the rate of remuneration does not exceed 1s. 6d. a working day—

To be paid by the employer . . . A week.
" " out of moneys provided by Parliament { For men, 4½d. "
" " " " women, 3½d. "
" " " " " 1d.

Where the rate of remuneration exceeds 1s. 6d. but does not exceed 2s. a working day—

To be paid by the employer . . . A week.
" " contributor { For men, 4d. "
" " " " women, 3d. "
" " out of moneys provided by Parliament { " 1d. "

Where the rate of remuneration exceeds 2s. but does not exceed 2s. 6d. a working day—

To be paid by the employer . . . { For men, 3½d. "
" " contributor " " women, 2½d. "
" " " " " 2d.

THIRD SCHEDULE.

[Section 4.]

RULES AS TO PAYMENT AND RECOVERY OF CONTRIBUTIONS PAID BY EMPLOYERS ON BEHALF OF EMPLOYED CONTRIBUTORS UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

(1) A weekly contribution shall be payable for each calendar week during the whole or any part of which an employed contributor has been employed by an employer: Provided that, where one weekly contribution has been paid in respect of an employed contributor in any such week, no further contribution shall be payable in respect of him in the same week, and that, where no remuneration has been received and no services rendered by an employed contributor during any such week, or where no services have been rendered by an employed contributor during any such week and the employed contributor has been in receipt of sickness or disablement benefit during the whole or any part of that week, the employer shall not be liable to pay any contribution either on his own behalf or on behalf of the contributor in respect of that week.

(2) The employer shall, except as hereinafter provided, be entitled to recover from the employed contributor the amount of any contributions paid by him on behalf of the employed contributor.

(3) Except where the employed contributor does not receive any wages or other pecuniary remuneration from the employer, the amounts so recoverable shall, notwithstanding the provisions of any Act or any contract to the contrary, be recoverable by means of deductions from the wages or other remuneration, and not otherwise; but no such deductions may be made from any wages or remuneration other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable, or in excess of the sum which represents the amount of the contributions for the period (if such period is longer than a week) in respect of which the wages or other remuneration are paid.

(4) Where a contribution paid by the employer on behalf of an employed contributor is recoverable from the contributor but is not recoverable by means of deductions as aforesaid, it shall (without prejudice to any other means of recovery) be recoverable summarily as a civil debt, but no such contribution shall be recoverable unless proceedings for the purpose are instituted within three months from the date when the contribution was payable.

(5) Where the contributor is employed by more than one employer in any calendar week, the first person employing him in that week or such other employer or employers as may be prescribed shall be deemed to be the employer for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule.

(6) Regulations of the Insurance Commissioners may provide that in any cases or any classes of cases where employed contributors work under the general control and management of some person other than their immediate employer, such as the owner, agent, or manager of a mine or quarry, or the occupier of a factory or workshop, such person shall, for the purposes of the provisions of Part I. of this Act relating to the payment of contributions and of this schedule, be treated as the employer, and may provide for allowing him to deduct the amount of any contributions (other than employer's contributions) which he may become liable to pay from any sums payable by him to the immediate employer, and for enabling the immediate employer to recover

from the employed contributors the like sums and in the like manner as if he were liable to pay the contributions.

(7) Where the contributor is not paid wages or other money payments by his employer or any other person, the employer shall be liable to pay the contributions payable both by himself and the contributor, and shall not be entitled to recover any part thereof from the contributor.

(8) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages of or otherwise to recover from the contributor the employer's contribution.

(9) Any sum deducted by any employer from wages or other remuneration under this schedule shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

(10) The Insurance Commissioners may, by regulations, provide that in the case of outworkers the contributions to be paid may be determined by reference to the work actually done, instead of by reference to the weeks in which work is done, and any such regulations may apply to all trades or to any specified classes or branches of trades, and may determine the conditions to be complied with by employers who adopt such a system of payment of contributions.

(11) For the purposes of this schedule the expression "calendar week" means the period from midnight on one Sunday to midnight on the following Sunday.

FOURTH SCHEDULE.

BENEFITS UNDER PART I. OF THIS ACT RELATING TO HEALTH INSURANCE.

[Sections 8, 9, 37, 44 and 81.]

PART I.

Rates of Benefits.

TABLE A.—Ordinary Rates.

Sickness benefit: for men, the sum of 10s. a week throughout the whole period of twenty-six weeks; for women, the sum of 7s. 6d. a week throughout the whole period of twenty-six weeks.

Disablement benefit: the sum of 5s. a week for men and women alike.

TABLE B.—Reduced Rates in the case of Unmarried Minors.

Sickness Benefit—for males, the sum of 6s. a week during the first thirteen weeks and the sum of 5s. a week during the second thirteen weeks.

for females, the sum of 5s. a week for the first thirteen weeks and the sum of 4s. a week for the second thirteen weeks.

*Disablement Benefit—for females, the sum of 4s. a week.

TABLE C.—Reduced Rates for Persons over Fifty in certain cases.

Where the insured person is over 50 and under 60 at the time of becoming an employed contributor—

For men, the sum of 7s. a week throughout the whole period of twenty-six weeks.

For women, the sum of 6s. a week throughout the whole period of twenty-six weeks.

Where the insured person is over 60 at the time of becoming an employed contributor—

For both men and women, the sum of 6s. a week for the first thirteen weeks, and 5s. a week during the second thirteen weeks.

TABLE D.—Rates and Conditions for Married Women.

Sickness benefit: during the first thirteen weeks, the sum of 5s. a week; during the second thirteen weeks, 3s. a week.

Disablement benefit: the sum of 3s. a week.

Sickness benefit and disablement benefit shall not be payable during the two weeks before and four weeks after confinement, except in respect of a disease or disablement neither directly nor indirectly connected with childbirth.

PART II.

Additional Benefits.

(1) Medical treatment and attendance for any persons dependent upon the labour of a member

(2) The payment of the whole or any part of the cost of dental treatment.

(3) An increase of sickness benefit or disablement benefit in the case either of all members of the society or of such of them as have any children or any specified number of children wholly or in part dependent upon them.

(4) Payment of sickness benefit from the first, second, or third day after the commencement of the disease or disablement.

(5) The payment of a disablement allowance to members though not totally incapable of work.

(6) An increase of maternity benefit.

(7) Allowances to a member during convalescence from some disease or disablement in respect of which sickness benefit or disablement benefit has been payable.

(8) The building or leasing of premises suitable for convalescent homes and the maintenance of such homes.

(9) The payment of pensions or superannuation allowances whether by way of addition to old age pensions under the Old Age Pensions Act, 1908, or otherwise.

(10) The payment, subject to the prescribed conditions, of contributions to superannuation funds in which the members are interested.

(11) Payments to members who are in want or distress including the remission of arrears whenever such arrears may have become due.

(12) Payments for the personal use of a member who, by reason of being an inmate of a hospital or other institution, is not in receipt of sickness benefit or disablement benefit.

(13) Payments to members not allowed to attend work on account of infection.

(14) Repayment of the whole or any part of contributions thereafter payable under Part I. of this Act by members of the society or any class thereof.

PART III.

Benefits for Married Women who do not become Voluntary Contributors at reduced rates.

Payment of the sum of 5s. a week on confinement during a period not exceeding four weeks on any one occasion.

Payments during any period of sickness or distress, subject to regulations made by the Insurance Commissioners and to the discretion of the society or committee administering the benefit.

FIFTH SCHEDULE.

[Section 10.]

REDUCTION OR POSTPONEMENT OF SICKNESS BENEFIT AND WHERE CONTRIBUTIONS ARE IN ARREAR.

TABLE.

(1)		(2)	
Where the Arrears amount to		Rates of Sickness Benefit.	
		Men.	Women.
4 contributions a year on average		s. d.	s. d.
5	" " "	9 6	7 3
6	" " "	9 0	7 0
7	" " "	8 6	6 9
8	" " "	8 0	6 6
9	" " "	7 6	6 3
10	" " "	7 0	6 0
11	" " "	6 6	5 9
12	" " "	6 0	5 6
13	" " "	5 6	5 3
14	" " "	5 0	5 0
For both Men and Women.		5s. 0d., commencing 5th day after commencement of illness.	
		" 6th	"
		" 7th	"
		" 8th	"
		" 9th	"
		" 10th	"
		" 11th	"
		" 12th	"
		" 13th	"
		" 14th	"

Notes.

Where the insured person is, by virtue of any of the provisions of Part I. of this Act, other than those relating to arrears, entitled to sickness benefit at a rate lower than the full rate, this Table shall have effect as if the entries in the first column were so shifted down that the first entry therein was set opposite the entry in the second column next below the entry specifying the rate of sickness benefit to which the insured person is entitled.

When the rate of sickness benefit during the first thirteen weeks to which the insured person is entitled is, by virtue of any of the provisions of this Act, other than those relating to arrears, less than 5s. a week, this Table shall have effect as if such lower rate were therein substituted for the rate of 5s. a week.

SIXTH SCHEDULE.

[Section 84.]

LIST OF INSURED TRADES FOR THE PURPOSES OF PART II. OF THIS ACT RELATING TO UNEMPLOYMENT INSURANCE.

(1) Building; that is to say, the construction, alteration, repair, decoration, or demolition of buildings, including the manufacture of any fittings of wood of a kind commonly made in builders' workshops or yards.

(2) Construction of works; that is to say, the construction, reconstruction, or alteration of railroads, docks, harbours, canals, embankments, bridges, piers or other works of construction.

(3) Shipbuilding; that is to say, the construction, alteration, repair or decoration of ships, boats or other craft by persons not being usually members of a ship's crew, including the manufacture of any fittings of wood of a kind commonly made in a shipbuilding yard.

(4) Mechanical engineering, including the manufacture of ordnance and firearms.

(5) Ironfounding, whether included under the foregoing headings or not.

(6) Construction of vehicles; that is to say, the construction, repair, or decoration of vehicles.

(7) Sawmilling (including machine woodwork) carried on in connection with any other insured trade or of a kind commonly so carried on.

SEVENTH SCHEDULE.

[Section 84.]

RATES AND PERIODS OF UNEMPLOYMENT BENEFIT.

In respect of each week following the first week of any period of unemployment, seven shillings, or such other rates as may be prescribed either generally or for any particular trade or any branch thereof:

Provided that, in the case of a workman under the age of eighteen, no unemployment benefit shall be paid while the workman is below the age of seventeen, and while the workman is of the age of seventeen or upwards but below the age of eighteen, unemployment benefit shall only be paid at half the rate at which it would be payable if the workman was above the age of eighteen.

No workman shall receive unemployment benefit for more than fifteen or such other number of weeks as may be prescribed either generally or for any particular trade or branch thereof within any period of twelve months, or in respect of any period less than one day.

No workman shall receive more unemployment benefit than in the proportion of one week's benefit for every five contributions paid by him under this Act:

Provided that for the purpose of the foregoing paragraph—

(a) in the case of a workman who satisfies the Board of Trade that he is over the age of twenty-one and has habitually worked at an insured trade before the commencement of this Act, there shall be deemed to be added to the number of contributions which he has actually paid five contributions for each period of three months or part of such period during which he has so worked before the commencement of this Act, up to a maximum of twenty-five contributions; and

(b) where, owing to the fact that the wages or other remuneration of a workman are paid at intervals greater than a week, or for any other like reason contributions are paid under Part II. of this Act in respect of any workman at intervals greater than a week, that workman shall be entitled to treat each of such contributions as so many contributions as there are weeks in the period for which the contribution has been paid.

Any time during which a workman is, under Part II. of this Act, disqualified for receiving unemployment benefit shall be excluded in the computation of periods of unemployment under this schedule.

A period of unemployment shall not be deemed to commence till the workman has made application for unemployment benefit in such manner as may be prescribed.

The power conferred by this schedule on the Board of Trade to prescribe rates and periods of unemployment benefit shall not be exercised so as to increase the rate of benefit above eight shillings per week or reduce it below six shillings per week, or to increase the period of unemployment benefit above fifteen weeks, or to alter the proportion which the period of benefit bears to the number of contributions paid, except by rules confirmed by an order made in accordance with the provisions of this Act relating to special orders.

EIGHTH SCHEDULE.

[Sections 85, 102 and 103.]

CONTRIBUTIONS FOR THE PURPOSES OF PART II. OF THIS ACT RELATING TO UNEMPLOYMENT INSURANCE.

RATES OF CONTRIBUTION FROM WORKMEN AND EMPLOYERS.

From every workman employed in an insured trade for every week he is so employed - - - - - 2½d.

From every employer by whom one or more workmen are employed in an insured trade, in respect of each workman, for every week he is so employed - - - - - 2½d.

Provided that, in the case of a workman below the age of eighteen, 1d. shall be substituted for 2½d. as the contribution from the workman and from the employer, but, for the purpose of reckoning the number of contributions in respect of such a workman except as regards the payment of unemployment benefit before he reaches the age of eighteen, the 1d. shall be treated as two-fifths of a contribution.

Every such period of employment of less than a week shall, for the purposes of this schedule, be treated as if it were employment for a whole week, except that, where the period of employment is two days or less, the contributions both of the employer and of the workman shall be reduced to one penny if the period does not exceed one day and to twopence if it exceeds one day; and, in such case, in reckoning the number of contributions under Part II. of this Act and the schedule therein referred to, contributions at such reduced rates shall be treated as two-fifths or four-fifths of a contribution as the case may require.

NINTH SCHEDULE.

[Section 114.]

PROVISIONS OF THE FACTORY AND WORKSHOP ACT, 1901, APPLIED TO SPECIAL ORDERS MADE UNDER THIS ACT.

80.—(1) Before the authority empowered to make special orders make any special order under this Act, they shall publish, in such manner as they may think best adapted for informing persons affected, notice of the proposal to make the order, and of the place where copies of the draft order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the authority.

(2) Every objection must be in writing and state—

- (a) the draft order or portions of draft order objected to;
 - (b) the specific grounds of objection; and
 - (c) the omissions, additions, or modifications asked for.
- (3) The authority shall consider any objection made by or on behalf of any persons appearing to them to be affected which is sent to them within the required time, and they may, if they think fit, amend the draft order, and shall then cause the amended draft to be dealt with in like manner as an original draft.
- (4) Where the authority do not amend or withdraw any draft order to which any objection has been made, then (unless the objection either is withdrawn or appears to them to be frivolous) they shall, before making the order, direct an inquiry to be held in the manner hereinafter provided.

81.—(1) The authority may appoint a competent and impartial person to hold an inquiry with regard to any draft order, and to report to them thereon.

(2) The inquiry shall be held in public, and any objector and any other person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry either in person or by counsel, solicitor, or agent.

(3) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

(4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the authority.

(5) The fee to be paid to the person holding the inquiry shall be such as the authority may direct and shall be deemed to be part of the expenses of the authority in carrying this Act into effect.

(6) For the purposes of this schedule, the expression "authority" means the Insurance Commissioners or the Board of Trade, as the case may be.

CHAPTER 56.

[TELEPHONE TRANSFER AMENDMENT ACT, 1911.]

An Act to amend the Telephone Transfer Act 1911, so as to authorise a payment to be made to the National Telephone Company, Limited, of a sum on account of the Telephone Purchase Money before the amount thereof is finally ascertained.

[16th December 1911.]

CHAPTER 57.

[MARITIME CONVENTIONS ACT, 1911.]

An Act to amend the Law relating to Merchant Shipping with a view to enabling certain Conventions to be carried into effect.

[16th December 1911.]

Whereas at the Conference held at Brussels in the year nineteen hundred and ten two conventions, dealing respectively with collisions between vessels and with salvage, were signed on behalf of His Majesty, and it is desirable that such amendments should be made in the law relating to merchant shipping as will enable effect to be given to the conventions:

Be it therefore enacted, &c

Provisions as to Collisions, &c.

1. *Rule as to division of loss.*—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:

Provided that—

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and
- (b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and
- (c) nothing in this section shall affect the lia-

bility of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Act, the expression "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

2. *Damages for personal injuries.*—Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several:

Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

3. *Right of contribution.*—(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

4. *Abolition of statutory presumptions of fault.*—(1) Sub-section (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 [57 & 58 Vict., c. 60] (which provides that a ship shall be deemed in fault in a case of a collision where any of the collision regulations have been infringed by that ship), is hereby repealed.

(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894 (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly sub-section (2) of that section shall be repealed.

5. *Jurisdiction in cases of loss of life or personal injury.*—Any enactment which confers on any court Admiralty jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.

Provisions as to Salvage.

6. *General duty to render assistance to persons in danger at sea.*—(1) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with His Majesty, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of a misdemeanour.

(2) Compliance by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

7. *Apportionment of salvage amongst owners, &c., of foreign ship.*—Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

General Provisions.

8. *Limitation of actions.*—No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:

Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

9. *Application of Act.*—(1) This Act shall extend throughout His Majesty's dominions and to any territories under his protection, and to Cyprus.

Provided that it shall not extend to the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) This Act shall not apply in any case in which proceedings have been taken before the passing thereof, and all such cases shall be determined as though this Act had not been passed.

(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and sub-section (9) of section twenty-five of the Supreme Court of Judicature Act, 1873 [36 & 37 Vict., c. 66], shall cease to have effect.

(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel, as though the expression "owners" included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

10. *Short title and construction.*—This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Acts, 1894 to 1907.

CHAPTER 58.

[RESIDENT MAGISTRATES (BELFAST) ACT, 1911.]

An Act to amend the Law with respect to the salaries, superannuation, appointment, and powers of Resident Magistrates for the city of Belfast.

[16th December 1911.]

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STATUTES

2 GEO. 5.

CHAPTER 1.

[CONSOLIDATED FUND (No. 1) ACT, 1912.]

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March one thousand nine hundred and eleven, one thousand nine hundred and twelve, and one thousand nine hundred and thirteen.
[28th March, 1912.]

CHAPTER 2.

[COAL MINES (MINIMUM WAGE) ACT, 1912.]

An Act to provide a Minimum Wage in the case of Workmen employed underground in Coal Mines (including Mines of Stratified Ironstone), and for purposes incidental thereto.
[29th March, 1912.]

Be it enacted, &c.:

1. *Minimum wage for workmen employed underground in coal mines.*—(1) It shall be an implied term of every contract for the employment of a workman underground in a coal mine that the employer shall pay to that workman wages at not less than the minimum rate settled under this Act and applicable to that workman, unless it is certified in manner provided by the district rules that the workman is a person excluded under the district rules from the operation of this provision, or that the workman has forfeited the right to wages at the minimum rate by reason of his failure to comply with the conditions with respect to the regularity or efficiency of the work to be performed by workmen laid down by those rules; and any agreement for the payment of wages in so far as it is in contravention of this provision shall be void.

For the purposes of this Act, the expression "district rules" means rules made under the powers given by this Act by the joint district board.

(2) The district rules shall lay down conditions, as respects the district to which they apply, with respect to the exclusion from the right to wages at the minimum rate of aged workmen and infirm workmen (including workmen partially disabled by illness or accident), and shall lay down conditions with respect to the regularity and efficiency of the work to be performed by the workmen, and with respect to the time for which a workman is to be paid in the event of any interruption of work due to an emergency, and shall provide that a workman shall forfeit the right to wages at the minimum rate if he does not comply with conditions as to regularity and efficiency of work, except in cases where the failure to comply with the conditions is due to some cause over which he has no control.

The district rules shall also make provision with respect to the persons by whom and the mode in which any question, whether any workman in the district is a workman to whom the minimum rate of wages is applicable, or whether a workman has complied with the conditions laid down by the rules, or whether a workman who has not complied with the conditions laid down by the rules has forfeited his right to wages at the minimum rate, is to be decided, and for a certificate being given of any such decision for the purposes of this section.

(3) The provisions of this section as to payment of wages at a minimum rate shall operate as from the date of the passing of this Act, although a minimum rate of wages may not have been

settled, and any sum which would have been payable under this section to a workman on account of wages if a minimum rate had been settled may be recovered by the workman from his employer at any time after the rate is settled.

2. *Settlement of minimum rates of wages and district rules.*—(1) Minimum rates of wages and district rules for the purposes of this Act shall be settled separately for each of the districts named in the Schedule to this Act by a body of persons recognised by the Board of Trade as the joint district board for that district.

Nothing in this Act shall prejudice the operation of any agreement entered into or custom existing before the passing of this Act for the payment of wages at a rate higher than the minimum rate settled under this Act, and in settling any minimum rate of wages the joint district board shall have regard to the average daily rate of wages paid to the workmen of the class for which the minimum rate is to be settled.

(2) The Board of Trade may recognise as a joint district board for any district any body of persons, whether existing at the time of the passing of this Act or constituted for the purposes of this Act, which in the opinion of the Board of Trade fairly and adequately represents the workmen in coal mines in the district and the employers of those workmen, and the chairman of which is an independent person appointed by agreement between the persons representing the workmen and employers respectively on the body, or in default of agreement by the Board of Trade.

The Board of Trade may, as a condition of recognising as a joint district board for the purposes of this Act any body the rules of which do not provide for securing equality of voting power between the members representing workmen and the members representing employers and for giving the chairman a casting vote in case of difference between the two classes of members, require that body to adopt any such rule as the Board of Trade may approve for the purpose, and any rule so adopted shall be deemed to be a rule governing the procedure of the body for the purposes of this Act.

(3) The joint district board of a district shall settle general minimum rates of wages and general district rules for their district (in this Act referred to as general district minimum rates and general district rules), and the general district minimum rates and general district rules shall be the rates and rules applicable throughout the whole of the district to all coal mines in the district and to all workmen or classes of workmen employed underground in those mines, other than mines to which and workmen to whom a special minimum rate or special district rules settled under the provisions of this Act is or are applicable, or mines to which and workmen to whom the joint district board declare that the general district rates and general district rules shall not be applicable pending the decision of the question whether a special district rate or special district rules ought to be settled in their case.

(4) The joint district board of any district may, if it is shown to them that any general district minimum rate or general district rules are not applicable in the case of any group or class of coal mines within the district, owing to the special circumstances of the group or class of mines, settle a special minimum rate (either higher or lower than the general district rate) or special district rules (either more or less stringent than the general district rules) for that group or class of mines, and any such special rate or special rules shall be the rate or rules applicable to that group or class of mines instead of the

general district minimum rate or general district rules.

(5) For the purpose of settling minimum rates of wage, the joint district board may subdivide their district into two parts or, if the members of the joint district board representing the workmen and the members representing the employers agree, into more than two parts, and in that case each part of the district as so subdivided shall, for the purpose of the minimum rate, be treated as the district.

(6) For the purpose of settling district rules, any joint district boards may agree that their districts shall be treated as one district, and in that case those districts shall be treated for that purpose as one combined district, with a combined district committee appointed as may be agreed between the joint district boards concerned, and the chairman of such one of the districts forming the combination as may be agreed upon between the joint district boards concerned, or, in default of agreement, determined by the Board of Trade, shall be the chairman of the combined district committee.

3. *Revision of minimum rates of wages and district rules.*—(1) Any minimum rate of wages or district rules settled under this Act shall remain in force until varied in accordance with the provisions of this Act.

(2) The joint district board of a district shall have power to vary any minimum rate of wages or district rules for the time being in force in their district—

(a) at any time by agreement between the members of the joint district board representing the workmen and the members representing the employers; and

(b) after one year has elapsed since the rate or rules were last settled or varied, on an application made (with three months' notice given after the expiration of the year) by any workmen or employers, which appears to the joint district board to represent any considerable body of opinion amongst either the workmen or the employers concerned;

and the provisions of this Act as to the settlement of minimum rates of wages or district rules shall, so far as applicable, apply to the variation of any such rate or rules.

4. *Provision for bringing Act into operation, &c.*—(1) If within two weeks after the passing of this Act a joint district board has not been recognised by the Board of Trade for any district, or if at any time after the passing of this Act any occasion arises for the exercise or performance in any district of any power or duty under this Act by the joint district board, and there is no joint district board for the district, the Board of Trade may, either forthwith or after such interval as may seem to them necessary or expedient, appoint such person as they think fit to act in the place of the joint district board, and, while that appointment continues, this Act shall be construed, so far as respects that district, as if the person so appointed were substituted for the joint district board.

The Board of Trade in any such case where it appears to them that the necessity for the exercise of their powers under this provision arises from the failure of the employers to appoint members to represent employers on a board when the workmen are willing to appoint members to represent workmen, or from the failure of the workmen to appoint members to represent workmen on a board when the employers are willing to appoint members to represent employers, may, if they think fit, instead of appointing a person to act in place of the joint

district board, appoint such persons as they think fit to represent the employers or the workmen, as the case may be, who have failed to appoint members to represent them; and in that case the members so appointed by the Board of Trade shall be deemed to be members of the board representing employers or workmen as the case requires.

(2) If the joint district board within three weeks after the time at which it has been recognised under this Act for any district fail to settle the first minimum rates of wages and district rules in that district, or if the joint district board, within three weeks after the expiration of a notice for an application under this Act to vary any minimum rate of wages or district rules fail to deal with the application, the chairman of the joint district board shall settle the rates or rules or deal with the application, as the case may be, in place of the joint district board, and any minimum rate of wages or district rules settled by him shall have the same effect for the purposes of this Act as if they had been settled by the joint district board:

Provided that, if the members of the joint district board representing the workmen and the members representing the employers agree, or if the chairman of the joint district board directs, that a specified period longer than three weeks shall for the purposes of this subsection be substituted for three weeks, this subsection shall have effect as if that specified period were therein substituted for three weeks.

5. Interpretation, and provision as to chairman.—(1) In this Act—

The expression "coal mine" includes a mine of stratified ironstone;

The expression "workman" means any person employed in a coal mine below ground other than—

(a) a person so employed occasionally or casually only; or

(b) a person so employed solely in surveying or measuring; or

(c) a person so employed as mechanic; or

(d) the manager or any under-manager of the mine; or

(e) any other official of the mine whose position in the mine is recognised by the joint district board as being a position different from that of a workman.

(2) If it is thought fit by any persons when appointing a chairman for the purposes of this Act, or by the Board of Trade when so appointing a chairman, the office of chairman may be committed to three persons, and in that case those three persons acting by a majority shall be deemed to be the chairman for the purposes of this Act.

6. Short title and duration.—(1) This Act may be cited as the Coal Mines (Minimum Wage) Act, 1912.

(2) This Act shall continue in force for three years from the date of the passing thereof and no longer, unless Parliament shall otherwise determine.

SCHEDULE.

[Section 2.]

DISTRICTS.

Northumberland.
Durham.
Cumberland.
Lancashire and Cheshire.
South Yorkshire.
West Yorkshire.
Cleveland.
Derbyshire (exclusive of South Derbyshire).
South Derbyshire.
Nottinghamshire.
Leicestershire.
Shropshire.
North Staffordshire.
South Stafford (exclusive of Cannock Chase) and East Worcestershire.
Cannock Chase.
Warwickshire.
Forest of Dean.
Bristol.

Somerset.

North Wales.

South Wales, including Monmouth.

The mainland of Scotland.

Where a mine, though situate in one of these districts, has for industrial purposes been customarily dealt with in the same manner as a mine situate in an adjoining district, that mine shall for the purposes of this Act be treated as situate in the latter district, if the joint district boards of the two districts so agree.

CHAPTER 3.

[SHOPS ACT, 1912.]

An Act to consolidate the Shops Regulation Acts, 1892 to 1911. [29th March, 1912.]

Be it enacted, &c.:

Conditions of employment.

1. Hours of employment and meal times.—

(1) On at least one week day in each week a shop assistant shall not be employed about the business of a shop after half-past one o'clock in the afternoon.

Provided that this provision shall not apply to the week preceding a bank holiday if the shop assistant is not employed on the bank holiday, and if on one week day in the following week in addition to the bank holiday the employment of the shop assistant ceases not later than half-past one o'clock in the afternoon.

(2) The occupier of a shop shall fix, and shall specify in a notice in the prescribed form, which must be affixed in the shop in such manner and at such time as may be prescribed, the day of the week on which his shop assistants are not employed after half-past one o'clock, and may fix different days for different shop assistants.

(3) Intervals for meals shall be allowed to each shop assistant in accordance with the First Schedule to this Act:

Provided that this provision shall not apply to a shop if the only persons employed as shop assistants are members of the family of the occupier of the shop, maintained by him and dwelling in his house.

(4) In the case of any contravention of, or failure to comply with, the provisions of this section, the occupier of the shop shall be guilty of an offence against this Act, and shall be liable to a fine not exceeding—

(a) in the case of a first offence, one pound;

(b) in the case of a second offence, five pounds; and

(c) in the case of a third or subsequent offence, ten pounds—

unless, in the case of a shop assistant employed after half-past one o'clock in contravention of this section, he proves that the shop assistant was employed merely for the purpose of serving a customer whom he was serving at that time, or, where the time of the closing of the shop was also half-past one o'clock, that the shop assistant was employed merely for the purpose of serving customers who were in the shop at that time.

2. Hours of employment of young persons.—

(1) No person under the age of eighteen years (in this Act referred to as a "young person") shall be employed in or about a shop for a longer period than seventy-four hours, including meal times, in any one week.

(2) No young person shall, to the knowledge of the occupier of the shop, be employed in or about a shop—

(a) having been previously on the same day employed in any factory or workshop, as defined by the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22], for the number of hours permitted by that Act; or

(b) for a longer period than will, together with the time during which he has been previously employed on the same day in a factory or workshop, complete such number of hours as aforesaid.

(3) In every shop in which a young person is employed a notice shall be kept exhibited by the occupier of the shop in a conspicuous place referring to the provisions of this section and stating the number of hours in the week during

which a young person may lawfully be employed in or about the shop.

(4) Where a young person is employed in or about a shop contrary to the provisions of this section, the occupier of the shop shall be guilty of an offence against this Act, and liable to a fine not exceeding one pound, or, where more than one young person is so employed, one pound for each person, and, if the occupier of a shop fails to comply with the provisions of this section with respect to notices, he shall be guilty of an offence against this Act, and liable to a fine not exceeding forty shillings.

(5) This section shall apply to wholesale shops, and to warehouses in which assistants are employed for hire, in like manner as if they were shops within the meaning of this Act, and the provisions of sections thirteen and fourteen of this Act shall, for the purposes of the enforcement of this section, be construed accordingly.

(6) This section shall not apply to any person wholly employed as a domestic servant.

3. Seats for female shop assistants.—(1) In all rooms of a shop where female shop assistants are employed in the serving of customers, the occupier of the shop shall provide seats behind the counter, or in such other position as may be suitable for the purpose, and such seats shall be in the proportion of not less than one seat to every three female shop assistants employed in each room.

(2) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act, and liable for a first offence to a fine not exceeding three pounds, and for a second or subsequent offence to a fine not less than one pound and not exceeding five pounds.

Closing of Shops.

4. Closing of shops on weekly half-holiday.—

(1) Every shop shall, save as otherwise provided by this Act, be closed for the serving of customers not later than one o'clock in the afternoon on one week day in every week.

(2) The local authority may, by order, fix the day on which a shop is to be so closed (in this Act referred to as "the weekly half-holiday"), and any such order may either fix the same day for all shops, or may fix—

(a) different days for different classes of shops; or

(b) different days for different parts of the district; or

(c) different days for different periods of the year:

Provided that—

(i) where the day fixed is a day other than Saturday, the order shall provide for enabling Saturday to be substituted for such other day; and

(ii) where the day fixed is Saturday, the order shall provide for enabling some other day specified in the order to be substituted for Saturday;

as respects any shop in which notice to that effect is affixed by the occupier, and that no such order shall be made unless the local authority, after making such inquiry as may be prescribed, are satisfied that the occupiers of a majority of each of the several classes of shops affected by the order approve the order.

(3) Unless and until such an order is made affecting a shop, the weekly half-holiday as respects the shop shall be such day as the occupier may specify in a notice affixed in the shop, but it shall not be lawful for the occupier of the shop to change the day oftener than once in any period of three months.

(4) Where the local authority have reason to believe that a majority of the occupiers of shops of any particular class in any area are in favour of being exempted from the provisions of this section, either wholly or by fixing as the closing hour instead of one o'clock some other hour not later than two o'clock, the local authority, unless they consider that the area in question is unreasonably small, shall take steps to ascertain the wishes of such occupiers, and, if they are satisfied that a majority of the occupiers of such shops are in favour of the exemption, or, in the case of a vote being taken, that at least one half

of the votes recorded by the occupiers of shops within the area of the class in question are in favour of the exemption, the local authority shall make an order exempting the shops of that class within the area from the provisions of this section either wholly or to such extent as aforesaid.

(5) Where a shop is closed during the whole day on the occasion of a bank holiday, and that day is not the day fixed for the weekly half-holiday, it shall be lawful for the occupier of the shop to keep the shop open for the serving of customers after the hour at which it is required under this section to be closed either on the half-holiday immediately preceding, or on the half-holiday immediately succeeding, the bank holiday.

(6) This section shall not apply to any shop in which the only trade or business carried on is trade or business of any of the classes mentioned in the Second Schedule to this Act, but the local authority may, by order made and revocable in the manner hereinafter provided with respect to closing orders, extend the provisions of this section to shops of any class exempted under this provision if satisfied that the occupiers of at least two-thirds of the shops of that class approve the order.

(7) In the case of any contravention of or failure to comply with any of the provisions of this section, the occupier of the shop shall be guilty of an offence against this Act, and shall be liable to a fine not exceeding—

- (a) in the case of a first offence, one pound;
- (b) in the case of a second offence, five pounds; and
- (c) in the case of a third or subsequent offence, ten pounds:

Provided that the occupier of a shop shall not be guilty of an offence against this Act when a customer is served at any time at which the shop is required to be closed under this section if he proves either that the customer was in the shop before the time when the shop was required to be closed, or that there was reasonable ground for believing that the article supplied to the customer was required in the case of illness.

(8) Nothing in this section shall prevent customers from being served at a time when the shop in which they are sold is required to be closed with victuals, stores, or other necessaries for a ship, on her arrival at or immediately before her departure from a port.

5. Closing orders.—(1) An order (in this Act referred to as "a closing order") made by a local authority, and confirmed by the Secretary of State in manner provided by this Act, may fix the hours on the several days of the week at which, either throughout the area of the local authority or in any specified part thereof, all shops or shops of any specified class are to be closed for serving customers.

(2) The hour fixed by a closing order (in this Act referred to as "the closing hour") shall not be earlier than seven o'clock in the evening on any day of the week.

(3) The order may—

- (a) define the shops and trades to which the order applies; and
- (b) authorise sales after the closing hour in cases of emergency and in such other circumstances as may be specified or indicated in the order; and
- (c) contain any incidental, supplemental, or consequential provisions which may appear necessary or proper.

(4) Nothing in a closing order shall apply to any shop in which the only trade or business carried on is trade or business of any of the classes mentioned in the Third Schedule to this Act.

(5) If any person contravenes the provisions of a closing order, he shall be guilty of an offence against this Act, and liable to a fine not exceeding—

- (a) in the case of a first offence, one pound;
- (b) in the case of a second offence, five pounds; and
- (c) in the case of a third or subsequent offence, twenty pounds:

Provided that nothing in this section or in any closing order shall render a person liable to any penalty for serving after the closing hour any customer who was in the shop before the closing hour.

6. Procedure for making orders.—(1) Whenever a local authority are satisfied that a *prima facie* case is made out for making a closing order, the authority shall give public notice in the prescribed manner and in the prescribed form of their intention to make an order, specifying therein a period (not being less than the prescribed period) within which objections may be made to the making of the proposed order, and, if after taking into consideration any objections they may have received the local authority are satisfied that it is expedient to make the order and that the occupiers of at least two-thirds in number of the shops to be affected by the order approve the order, they may make the order.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and the order shall be submitted to the Secretary of State, and the Secretary of State shall consider any objections to the order, and may either disallow the order or confirm the order with or without amendment.

(3) As soon as the Secretary of State has confirmed any order, the order shall become final and have the effect of an Act of Parliament:

Provided that every closing order shall be laid before each House of Parliament as soon as may be after it is confirmed, and, if an address is presented to His Majesty by either House within the next subsequent forty days on which that House has sat after any such order is laid before it praying that the order may be cancelled, His Majesty in Council may annul the order, and any order so annulled shall thenceforth become void and of no effect, but without prejudice to any proceedings which may in the meantime have been taken under the order and without prejudice to the power of making any new closing order.

7. Local inquiries for the purpose of promoting and facilitating early closing.—(1) Where it appears to the Secretary of State, on the representation from a substantial number of occupiers of shops and shop assistants in the area of the local authority, that it is expedient to ascertain the extent to which there is a demand for early closing in any locality, and to promote and facilitate the making of a closing order therein, the Secretary of State may appoint a competent person to hold a local inquiry.

(2) If, after holding such an inquiry and conferring with the local authority, it appears to the person holding the inquiry that it is expedient that a closing order should be made, he shall prepare a draft order and submit it to the Secretary of State together with his report thereon.

(3) If the Secretary of State, after considering the draft order and report, and any representations which the local authority may have made in respect thereof, is of opinion that it is desirable that a closing order should be made, he may communicate his decision to the local authority, and thereupon there shall be deemed to be a *prima facie* case for making a closing order in accordance with the terms of the draft order, subject to such modifications (if any) as the Secretary of State may think fit.

(4) The person who held the inquiry shall, if so directed by the Secretary of State on the application of the local authority, assist and co-operate with the local authority in taking the steps preliminary to making the order.

8. Revocation of closing orders.—The Secretary of State may, at any time on the application of the local authority, revoke a closing order either absolutely or so far as it affects any particular class of shops, and, if at any time it is made to appear to the satisfaction of the local authority that the occupiers of a majority of any class of shops to which a closing order applies are opposed to the continuance of the order, the local authority shall apply to the Secretary of State to revoke the order in so far as it affects

that class of shops, but any such revocation shall be without prejudice to the making of any new closing order.

Provisions with Respect to Special Classes of Trade or Business.

9. Provisions as to trading elsewhere than in shops.—It shall not be lawful in any locality to carry on in any place not being a shop retail trade or business of any class at any time when it would be unlawful in that locality to keep a shop open for the purposes of retail trade or business of that class, and, if any person carries on any trade or business in contravention of this section, this Act shall apply as if he were the occupier of a shop and the shop were being kept open in contravention of this Act:

Provided that—

- (a) the prohibition imposed by this section shall, as respects any day other than the weekly half-holiday, be subject to such exemptions and conditions (if any) as may be contained in closing orders; and
- (b) nothing in this section shall be construed as preventing a barber or hairdresser from attending a customer in the customer's residence, or the holding of an auction sale of private effects in a private dwelling-house; and
- (c) nothing in this section shall apply to the sale of newspapers.

10. Provisions as respects shops where more than one business is carried on.—(1) Where several trades or businesses are carried on in the same shop, and any of those trades or businesses is of such a nature, that, if it were the only trade or business carried on in the shop, the shop would be exempt from the obligation to be closed on the weekly half-holiday, the exemption shall apply to the shop so far as the carrying on of that trade or business is concerned, subject, however, to such conditions as may be prescribed.

(3) Where several trades or businesses are carried on in the same shop and any of those trades or businesses are of such a nature that if they were the only trades or businesses carried on in the shop a closing order would not apply to the shop, the shop may be kept open after the closing hour for the purposes of those trades and businesses alone, but on such terms and under such conditions as may be specified in the order.

(3) Where several trades or businesses are carried on in the same shop, the local authority may require the occupier of the shop to specify which trade or business he considers to be his principal trade or business, and no trade or business other than that so specified shall, for the purpose of determining a majority under this Act, be considered as carried on in the shop unless the occupier of the shop satisfies the local authority that it forms a substantial part of the business carried on in the shop.

11. Special provisions as to holiday resorts.—(1) In places frequented as holiday resorts during certain seasons of the year the local authority may by order suspend, for such period or periods as may be specified in the order, not exceeding in the aggregate four months in any year, the obligation imposed by this Act to close shops on the weekly half-holiday.

(2) Where the occupier of any shop in any place in which any such order of suspension is in force satisfies the local authority that it is the practice to allow all his shop assistants a holiday on full pay of not less than two weeks in every year, and keeps affixed in his shop a notice to that effect, the requirement that on one day in each week a shop assistant shall not be employed after half-past one o'clock shall not apply to the shop during such period or periods as aforesaid.

12. Application to Post Office business.—(1) Where Post Office business is carried on in any shop in addition to any other business, this Act shall apply to that shop subject to the following modifications:—

- (a) If the shop is a telegraph office, the obligation to close on the weekly half-holiday shall not apply to the shop so

far as relates to the transaction of Post Office business thereat:

- (b) Where the Postmaster General certifies that the exigencies of the postal service require that Post Office business should be transacted in any such shop at times when under the provisions of this Act relating to the weekly half-holiday the shop would be required to be closed, or under conditions not authorised by section one of this Act, the shop shall, for the purpose of the transaction of Post Office business, be exempted from the provisions of this Act to such extent as the Postmaster General may certify to be necessary for the purpose:
- Provided that in such cases the Postmaster General shall make the best arrangements that the exigencies of the postal service allow with a view to the conditions of employment of the persons employed being on the whole not less favourable than those secured by this Act:
- (c) The provisions contained in any closing order imposing terms or conditions on the keeping open of any such shop after the closing hour for the transaction of Post Office business shall be subject to the approval of the Postmaster General.
- (2) Save as aforesaid, nothing in this Act shall apply to Post Office business, or to any premises in which Post Office business is transacted.

Enforcement of Act.

- 13. Powers and duties of local authorities.**—(1) It shall be the duty of every local authority to enforce within their district the provisions of this Act, and of the orders made thereunder or under any enactment repealed by this Act, and for that purpose to institute and carry on such proceedings in respect of failures to comply with or contraventions of this Act and such orders as aforesaid as may be necessary to secure the observance thereof, and to appoint inspectors; and an inspector so appointed shall, for the purposes of his powers and duties, have in relation to shops all the powers conferred in relation to factories and workshops on inspectors by section one hundred and nineteen of the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22], and that section and section one hundred and twenty-one of the same Act shall apply accordingly; and an inspector may, if so authorised by the local authority, institute and carry on any proceedings under this Act on behalf of the authority.

(2) In this Act the expression "local authority" means—
as respects the city of London, the common council;
as respects any municipal borough, the council of the borough;
as respects any urban district with a population according to the returns of the last published census for the time being of twenty thousand or upward, the district council;

elsewhere, the county council:

Provided that a county council may, with the approval of the Secretary of State, make arrangements with the council of an urban district in the county with a population of less than twenty thousand, or with the council of a rural district, for the exercise by the council of that district as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council under this Act within the district, and the council of the district may, as part of the agreement, undertake to pay the whole or any part of the expenses incurred in connection with the exercise of the powers delegated to them, and the London County Council may, with the like approval, make similar arrangements with the council of any metropolitan borough.

(3) The expenses of a local authority under this Act (including any expenses which a council undertake to pay as aforesaid) shall be defrayed—

in the case of the common council of the city of London, out of the general rate;

in the case of the council of a borough, out of the borough fund or borough rate;
in the case of a district council, as part of the general expenses incurred in the execution of the Public Health Acts;
in the case of a county council, as expenses for special county purposes;
in the case of a metropolitan borough council, as part of the expenses of the council.

14. Provisions with respect to offences.—(1) All offences against this Act shall be prosecuted, and all fines under this Act shall be recovered, in like manner as offences and fines are prosecuted and recovered under the Factory and Workshop Act, 1901, and sections one hundred and forty-three to one hundred and forty-six of that Act, and so much of section one hundred and forty-seven thereof as relates to evidence respecting the age of any person, so far as those provisions are applicable, shall have effect as if re-enacted in this Act and in terms made applicable thereto:

Provided that all fines imposed in any proceedings instituted by or on behalf of a local authority in pursuance of their powers and duties under this Act shall be paid to the local authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

(2) Where an offence for which the occupier of a shop is liable under this Act, has, in fact, been committed by some manager, agent, servant, or other person, the manager, agent, servant, or other person shall be liable to the like penalty as if he were the occupier.

(3) Where the occupier of a shop is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Act, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any fine.

General Provisions.

15. Expenses of Secretary of State.—Any expenses incurred by the Secretary of State under this Act, including the remuneration of any person holding a local inquiry under section seven of this Act, shall, to such extent as may be sanctioned by the Treasury, be paid out of moneys provided by Parliament.

16. Local inquiries.—In addition to the local inquiries which the Secretary of State is empowered to hold under section seven of this Act, the Secretary of State may cause a local inquiry to be held for the purposes of any of his powers and duties under this Act, and the costs incurred in relation to any such last-mentioned inquiry, including the salary of any officer engaged in the inquiry, not exceeding three guineas a day, shall be paid to the local authority concerned, and the Secretary of State may certify the amount of the costs incurred. Any sums so certified shall be a debt to the Crown from the local authority.

17. Regulations.—The Secretary of State may make regulations—

- for prescribing anything which under this Act is to be prescribed; and
- as to the mode of ascertaining the opinion of occupiers of shops; and
- as to conduct of local inquiries and matters incidental thereto; and
- as to the procedure for obtaining the revocation of a closing order; and
- generally for carrying into effect the provisions of this Act.

18. Proof and revocation of orders.—(1) Any order made by a local authority under this Act may be proved by the production of a copy thereof certified to be a true copy by a person purporting to be the clerk of the local authority by whom the order was made.

(2) Any order made by a local authority under this Act may, unless some other method of revocation is provided by this Act, be revoked by an order made in the like manner and subject to the like approval, if any, as the original order.

19. Interpretation and saving.—(1) In this Act—

The expression "shop" includes any premises where any retail trade or business is carried on;

The expression "retail trade or business" includes the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors, and retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement;

The expression "shop assistant" means any person wholly or mainly employed in a shop in connection with the serving of customers or the receipt of orders or the despatch of goods;

The expression "bank holiday" includes any public holiday or day of public rejoicing or mourning;

The expression "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

(2) Nothing in this Act shall apply to any fair lawfully held or any bazaar or sale of work for charitable or other purposes from which no private profit is derived.

20. Application to Scotland.]

21. Application to Ireland.]

22. Short title, commencement, and repeal.—(1) This Act may be cited as the Shops Act, 1912.

(2) This Act shall come into operation on the first day of May nineteen hundred and twelve.

(3) The Shops Regulation Acts, 1892 to 1911, are hereby repealed:

Provided that any closing order made under the Shop Hours Act, 1904 [4 Edw. 7, c. 31], which is in force at the commencement of this Act, shall continue in force until revoked in accordance with the provisions of this Act, except in so far as it fixes a closing hour earlier than seven o'clock for any shop to which the provisions of this Act with respect to the weekly half-holiday apply.

SCHEDULES.

FIRST SCHEDULE.

[Section 1.]

INTERVALS FOR MEALS.

Intervals for meals shall be arranged so as to secure that no person shall be employed for more than six hours without an interval of at least twenty minutes being allowed during the course thereof.

Without prejudice to the foregoing provision—

(1) where the hours of employment include the hours from 11.30 a.m. to 2.30 p.m., an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner; and

(2) where the hours of employment include the hours from 4 p.m. to 7 p.m., an interval of not less than half-an-hour shall be allowed between those hours for tea;

and the interval for dinner shall be increased to one hour in cases where that meal is not taken in the shop, or in a building of which the shop forms part or to which the shop is attached:

Provided that an assistant employed in the sale of refreshments or in the sale by retail of intoxicating liquors need not be allowed the interval for dinner between 11.30 a.m. and 2.30 p.m., if he is allowed the same interval so arranged as either to end not earlier than 11.30 a.m. or to commence not later than 2.30 p.m., and the same exemption shall apply to assistants employed in any shop on the market day in any town in which a market is held not oftener than

once a week, or on a day on which an annual fair is held.

SECOND SCHEDULE.

[Section 4.]

TRADES AND BUSINESSES EXEMPTED FROM THE PROVISIONS AS TO WEEKLY HALF-HOLIDAY.

The sale by retail of intoxicating liquors.
The sale of refreshments, including the business carried on at a railway refreshment room.
The sale of motor, cycle, and air-craft supplies and accessories to travellers.

The sale of newspapers and periodicals.
The sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers, and other articles of a perishable nature.

The sale of tobacco and smokers' requisites.
The business carried on at a railway bookstall or on adjoining a railway platform.

The sale of medicines and medical and surgical appliances.

Retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

THIRD SCHEDULE.

[Section 5.]

TRADES AND BUSINESSES EXEMPTED FROM PROVISIONS OF CLOSING ORDERS.

The sale by retail of intoxicating liquors.
The sale of refreshments for consumption on the premises.

The business carried on at a railway refreshment room.

The sale of newspapers.
The sale of tobacco and smokers' requisites.
The business carried on at a railway bookstall.
The sale of medicines and medical and surgical appliances.

Post Office business.

FOURTH SCHEDULE.

[Section 21. Provisions applicable to Rural Districts in Ireland and Towns within such Districts.]

FIFTH SCHEDULE.

[Section 21. Provisions with respect to Shops in Ireland in which the Business of the Sale by Retail of Intoxicating Liquors is carried on.]

CHAPTER 4.

[METROPOLITAN POLICE ACT, 1912.]

An Act to amend section twenty-three of the Metropolitan Police Act, 1829, with respect to the Limit imposed by that section as amended by subsequent enactments on the Amount to be provided annually for the purposes of the Metropolitan Police.

[29th March, 1912.]

CHAPTER 5.

[ARMY (ANNUAL) ACT, 1912.]

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army.

[30th April, 1912.]

CHAPTER 6.

[GOVERNMENT OF INDIA ACT, 1912.]

An Act to make such amendments in the Law relating to the Government of India as are consequential on the appointment of a separate Governor of Fort William in Bengal, and other administrative changes in the local government of India.

[25th June, 1912.]

CHAPTER 7.

[APPROPRIATION ACT, 1912.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and thirteen, and to appropriate the Supplies granted in this Session of Parliament.

[7th August, 1912.]

CHAPTER 8.

[FINANCE ACT, 1912.]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make other provisions for the financial arrangements of the year.

[7th August, 1912.]

Be it enacted, &c.:

PART I.

CUSTOMS AND EXCISE.

1. *Duty on tea.* 1 & 2 Geo. 5, c. 48.] The duty of Customs payable on tea until the first day of July nineteen hundred and twelve, under the Finance Act, 1911, shall be deemed to have been continued as from that date and shall continue to be charged, levied, and paid until the first day of July nineteen hundred and thirteen, on the importation thereof into Great Britain or Ireland (that is to say):—

Tea, the pound - - - fivepence.

2. *Distribution of payments on account of licence duties in certain cases.* 10 Edw. 7, c. 8.] Where the licensed premises are held under a lease or agreement for lease made before the passing of the Finance (1909-10) Act, 1910, which does not contain or import any covenant, agreement, or undertaking on the part of the lessee under such lease or agreement for lease to obtain a supply of intoxicating liquor from the grantor of the lease or agreement for lease, the lessee under such lease or agreement for lease shall be entitled, notwithstanding any agreement to the contrary, to recover as a debt due from, or deduct from any sum due to, the grantor of such lease or agreement for lease so much of any increase of the duty payable in respect of the licence under the provisions of the Finance (1909-10) Act, 1910, as may be agreed upon as proportionate to any increased rent or premium payable in respect of the premises being let as licensed premises, and, in default of agreement, the amount proportionate to such increased rent or premium shall be determined in manner directed by rules of court by a county court in England or Ireland, and by a sheriff court in Scotland.

The words "lease," "leased," "agreement for lease," and "lessee" in this section include sub-lease, sub-leased, agreement for sub-lease, and sub-lessee, respectively.

3. *Reduction of duty in case of Sunday and early closing licences.*] The following paragraph shall be added to provision three of the provisions applicable to retailers' on-licences in the First Schedule to the Finance (1909-10) Act, 1910—

"The power to obtain a licence on payment of a reduced amount of duty in the case of a six-day licence or an early closing licence shall apply to any case in which the minimum duty is payable under this provision, but the reduction shall not operate so as to make the duty payable less than one-third of the annual licence value of the premises."

4. *Tobacco for agricultural purposes.*] The Commissioners of Customs and Excise may authorise responsible persons duly licensed to grow tobacco within the United Kingdom, to grow tobacco for the sole purpose of obtaining an extract therefrom to be used, without payment of duty, in the manufacture of insecticides or sheepwash or for other purely agricultural or horticultural purposes. The authority shall be granted subject to such security and the observance of such regulations and conditions as the Commissioners may prescribe, and, if any person so authorised acts in contravention of or fails to comply with any of those regulations or conditions, the article in respect of which the offence is committed shall be forfeited, and the person committing the offence shall be liable in respect of each offence to an Excise penalty of fifty pounds.

PART II.

INCOME TAX.

5. *Income tax for 1912-13.*—(1) Income tax for the year beginning on the sixth day of April, nineteen hundred and twelve, shall be charged at the rate of one shilling and twopence, and the same super-tax shall be charged, levied, and paid for that year as was charged for the year beginning on the sixth day of April, nineteen hundred and eleven.

(2) All such enactments relating to income tax (including super-tax) as were in force with respect to duties of income tax granted for the year beginning on the sixth day of April, nineteen hundred and eleven, shall have full force and effect with respect to any duties of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1853 [16 & 17 Vict. c. 34], or of inhabited house duty, during the year ending on the fifth day of April, nineteen hundred and twelve, shall be taken as the annual value of such property for the same purpose during the next subsequent year; provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and

(b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 & 33 Vict. c. 67].

6. *Charge of super-tax in case of death.*] In the case of the death of a person liable to super-tax during any year for which super-tax is charged, a part only of the year's super-tax shall be payable proportionate to the part of the year which has elapsed before the date of the death.

7. *Exemption from income tax of funds under the National Insurance Act, 1911.* 1 & 2 Geo. 5, c. 55.]—(1) An approved society within the meaning of Part I. of the National Insurance Act, 1911, and any branch of such a society, shall be entitled to exemption from income tax in respect of the income derived from any funds or credits of the society under that Part of that Act, or any investment thereof, and the Insurance Commissioners, the Scottish Insurance Commissioners, the Irish Insurance Commissioners, and the Welsh Insurance Commissioners shall be entitled to a similar exemption in respect of any income derived from any funds held by them, or under their control or management, under or for the purposes of that Act.

(2) The exemption granted under this section shall be claimed and allowed in the same manner as in the case of income applicable and applied to charitable purposes, and shall be in addition to, and not in derogation of, any other exemption under any other Act.

PART III.

INLAND REVENUE (MISCELLANEOUS).

8. *Stamping of policies of sea insurance which are subject to a contingent increase of premium.*]—Where the premium or consideration for a policy of sea insurance is expressed to be a sum not exceeding the rate of half-a-crown per cent. of the sum insured, and is subject to an increase (whether defined or not in the policy) in the event of the occurrence of a specified contingency, the premium or consideration shall, for the purpose of the Stamp Act, 1891 [54 & 55 Vict., c. 39], be treated as a premium or consideration not exceeding the rate of half-a-crown per cent. on the sum insured. But if, owing to the occurrence of the contingency which is the occasion for an increase of the premium or consideration, the premium or consideration is increased so as to exceed the rate of half-a-crown per cent. of the sum insured, the policy or a new policy to be thereupon issued shall be stamped with such an additional sum as is required to represent the additional duty payable, and may be so stamped without penalty at any time not exceeding thirty days after the date on which the increased premium or consideration becomes ascertained.

9. *Estate duty on timber.*—Where an estate, in respect of which estate duty is payable on the death of a person dying on or after the thirtieth day of April, nineteen hundred and nine, comprises land on which timber, trees, wood, or underwood are growing, the value of such timber, trees, wood, or underwood shall not be taken into account in estimating the principal value of the estate or the rate of estate duty, and estate duty shall not be payable thereon, but shall, at the rate due to the principal value of the estate, be payable on the net moneys (if any), after deducting all necessary outgoings since the death of the deceased, which may from time to time be received from the sale of timber, trees, or wood when felled or cut during the period which may elapse until the land, on the death of some other person, again becomes liable or would, but for this subsection, have become liable to estate duty, and the owners or trustees of such land shall account for and pay the same accordingly as and when such moneys are received, with interest at the rate of three per cent. per annum from the date when such moneys are received.

This section shall take effect in substitution for the first paragraph of subsection five of section sixty-one of the Finance (1909-10) Act, 1910 [10 Edw. 7. c. 8], and that paragraph and section nineteen of the Finance Act, 1911 [1 & 2 Geo. 5, c. 48], are hereby repealed.

10. *Amendment of s. 2 (3) of 10 Edw. 7. c. 8.*—Subsection (3) of section two of the Finance (1909-10) Act, 1910, shall apply to the case of any transfer on sale of the fee simple of the land or of any interest in the land which took place between the twenty-ninth day of April, nineteen hundred and nine, and the date of the commencement of that Act, or took place after the commencement of that Act in pursuance of any contract made before the commencement of that Act, as it applies to the case of a transfer on sale which took place within twenty years before the thirtieth day of April, nineteen hundred and nine.

In the cases where the original site value has been finally settled before the passing of this Act an application may be made, notwithstanding anything in subsection (3) of the said section, under that subsection for the purpose of giving effect to this provision within three months after

the passing of this Act, and the Commissioners of Inland Revenue shall in such a case alter the original site value as finally settled, in such manner (if any) as may be necessary to give effect to the amendment made by this section, and in cases where any amount has been paid on account of duty the Commissioners shall make such repayment as may be necessary to adjust the amount paid to any alteration of value made in pursuance of this provision.

11. *Allowance of rates paid by the proprietor in estimating rental value for purposes of mineral rights duty.*—(1) The amount of rent taken to be the rental value under sections twenty and twenty-one of the Finance (1909-10) Act, 1910, of a right to work minerals (where the right is the subject of a mining lease), or of a mineral wayleave shall, in cases where the lessor is liable under any Act to pay any sum on account of rates, be the sum which would be payable as rent if the lessee were liable instead of the lessor.

(2) Where, for the purpose of ascertaining the rental value of minerals which are being worked by the proprietor, it is necessary for the Commissioners to determine the sum which would have been received as rent by the proprietor if the right to work the minerals had been leased to a working lessee, that rent shall be determined on the basis of the lessee paying all rates in respect of the minerals, notwithstanding that the case may be one in which the proprietor would have been liable to pay the rates or some part thereof.

PART IV.

NATIONAL DEBT.

12. *Suspension in part of issue of old sinking fund for 1911-12.*—The obligation to issue the old sinking fund to the National Debt Commissioners under section five of the Sinking Fund Act, 1875 [38 & 39 Vict. c. 45], shall not apply to the old sinking fund for the year ending the thirty-first day of March nineteen hundred and twelve in so far as the amount of that fund exceeds five million pounds.

PART V.

GENERAL.

13. *Construction and short title.*—(1) Part I. of this Act so far as it relates to duties of customs

shall be construed together with the Customs Consolidation Act, 1876 [39 & 40 Vict. c. 36], and the Acts amending that Act, and so far as it relates to duties of excise shall be construed together with the Acts which relate to the duties of excise and the management of those duties.

Part II. of this Act shall be construed together with the Income Tax Acts, 1842 [5 & 6 Vict. c. 35] and 1853 [16 & 17 Vict. c. 34], and any other enactments relating to income tax.

(2) This Act may be cited as the Finance Act, 1912.

CHAPTER 9.

[ISLE OF MAN (CUSTOMS) ACT, 1912.]

An Act to amend the Law with respect to Customs in the Isle of Man.

[7th August, 1912.]

CHAPTER 10.

[SEAL FISHERIES (NORTH PACIFIC) ACT, 1912.]

An Act to make such provisions with respect to the prohibition of catching Seals and Sea Otters in certain parts of the Pacific Ocean, and for the enforcement of such prohibitions as are necessary to carry out a Convention between His Majesty the King and the United States of America, the Emperor of Japan, and the Emperor of All the Russias.

[7th August, 1912.]

CHAPTER 11.

[PUBLIC WORKS LOANS ACT, 1912.]

An Act to grant Money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.

[7th August, 1912.]

CHAPTER 12.

[ELEMENTARY SCHOOL TEACHERS (SUPERANNUATION) ACT, 1912.]

An Act to amend the Elementary School Teachers (Superannuation) Act, 1898, as originally enacted and as applied by any other Act.

[7th August, 1912.]

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